

## Calendar No. 121

109TH CONGRESS  
1ST SESSION**S. 10**

To enhance the energy security of the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 9, 2005

Mr. DOMENICI, from the Committee on Energy and Natural Resources, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To enhance the energy security of the United States, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Energy Policy Act of 2005”.

6       (b) TABLE OF CONTENTS.—The table of contents of  
7       this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

TITLE I—ENERGY EFFICIENCY

### Subtitle A—Federal Programs

- Sec. 101. Energy and water saving measures in congressional buildings.
- Sec. 102. Energy management requirements.
- Sec. 103. Energy use measurement and accountability.
- Sec. 104. Procurement of energy efficient products.
- Sec. 105. Energy savings performance contracts.
- Sec. 106. Voluntary commitments to reduce industrial energy intensity.
- Sec. 107. Federal building performance standards.
- Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

### Subtitle B—Energy Assistance and State Programs

- Sec. 121. Weatherization assistance.
- Sec. 122. State energy programs.
- Sec. 123. Energy efficient appliance rebate programs.
- Sec. 124. Energy efficient public buildings.
- Sec. 125. Low income community energy efficiency pilot program.
- Sec. 126. State technologies advancement collaborative.
- Sec. 127. Model building energy code compliance grant program.

### Subtitle C—Energy Efficient Products

- Sec. 131. Energy Star program.
- Sec. 132. HVAC maintenance consumer education program.
- Sec. 133. Public energy education program.
- Sec. 134. Energy efficiency public information initiative.
- Sec. 135. Energy conservation standards for additional products.
- Sec. 136. Energy conservation standards for commercial equipment.
- Sec. 137. Expedited rulemaking.
- Sec. 138. Energy labeling.
- Sec. 139. Energy efficient electric and natural gas utilities study.
- Sec. 140. Energy efficiency pilot program.
- Sec. 141. Energy efficiency resource programs.

### Subtitle D—Measures to Conserve Petroleum

- Sec. 151. Reduction of dependence on imported petroleum.

### Subtitle E—Energy Efficiency in Housing

- Sec. 161. Public Housing Capital Fund.
- Sec. 162. Energy efficient appliances.
- Sec. 163. Energy efficiency standards.
- Sec. 164. Energy strategy for the Department of Housing and Urban Development.

## TITLE II—RENEWABLE ENERGY

### Subtitle A—General Provisions

- Sec. 201. Assessment of renewable energy resources.
- Sec. 202. Renewable energy production incentive.
- Sec. 203. Federal purchase requirement.
- Sec. 204. Renewable content of motor vehicle fuel.
- Sec. 205. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.

- Sec. 206. Data collection.
- Sec. 207. Sugar cane ethanol program.
- Sec. 208. Modification of Commodity Credit Corporation bioenergy program.
- Sec. 209. Advanced biofuel technologies program.
- Sec. 210. Assistance for rural communities with high energy costs.

#### Subtitle B—Insular Energy

- Sec. 221. Definitions.
- Sec. 222. Assessment.
- Sec. 223. Project feasibility studies.
- Sec. 224. Implementation.
- Sec. 225. Authorization of appropriations.

#### Subtitle C—Biomass Energy

- Sec. 231. Definitions.
- Sec. 232. Biomass commercial utilization grant program.
- Sec. 233. Improved biomass utilization program.
- Sec. 234. Report.

#### Subtitle D—Geothermal Energy

- Sec. 241. Competitive lease sale requirements.
- Sec. 242. Direct use.
- Sec. 243. Royalties.
- Sec. 244. Geothermal leasing and permitting on Federal land.
- Sec. 245. Assessment of geothermal energy potential.
- Sec. 246. Cooperative or unit plans.
- Sec. 247. Royalty on byproducts.
- Sec. 248. Lease duration and work commitment requirements.
- Sec. 249. Annual rental.
- Sec. 250. Advanced royalties required for cessation of production.
- Sec. 251. Leasing and permitting on Federal land withdrawn for military purposes.
- Sec. 252. Technical amendments.

#### Subtitle E—Hydroelectric

- Sec. 261. Alternative conditions and fishways.
- Sec. 262. Alaska State jurisdiction over small hydroelectric projects.
- Sec. 263. Flint Creek hydroelectric project.

### TITLE III—OIL AND GAS

#### Subtitle A—Petroleum Reserve and Home Heating Oil

- Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
- Sec. 302. National Oilheat Research Alliance.

#### Subtitle B—Production Incentives

- Sec. 311. Definition of Secretary.
- Sec. 312. Program on oil and gas royalties in-kind.
- Sec. 313. Marginal property production incentives.
- Sec. 314. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.

- Sec. 315. Royalty relief for deep water production.
- Sec. 316. Alaska offshore royalty suspension.
- Sec. 317. Oil and gas leasing in the National Petroleum Reserve in Alaska.
- Sec. 318. North slope science initiative.
- Sec. 319. Orphaned, abandoned, or idled wells on Federal land.
- Sec. 320. Combined hydrocarbon leasing.
- Sec. 321. Alternate energy-related uses on the outer Continental Shelf.
- Sec. 322. Preservation of geological and geophysical data.
- Sec. 323. Oil and gas lease acreage limitations.
- Sec. 324. Assessment of dependence of State of Hawaii on oil.
- Sec. 325. Denali Commission.
- Sec. 326. Comprehensive inventory of OCS oil and natural gas resources.
- Sec. 327. Review and demonstration program for oil and natural gas production.

#### Subtitle C—Access to Federal Land

- Sec. 341. Federal onshore oil and gas leasing practices.
- Sec. 342. Management of Federal oil and gas leasing programs.
- Sec. 343. Consultation regarding oil and gas leasing on public land.
- Sec. 344. Pilot project to improve Federal permit coordination.
- Sec. 345. Energy facility rights-of-ways and corridors on Federal land.
- Sec. 346. Oil shale leasing.

#### Subtitle D—Coastal Programs

- Sec. 371. Coastal impact assistance program.

#### Subtitle E—Natural Gas

- Sec. 381. Exportation or importation of natural gas.
- Sec. 382. New natural gas storage facilities.
- Sec. 383. Process coordination; hearings; rules of procedures.
- Sec. 384. Penalties.
- Sec. 385. Market manipulation.
- Sec. 386. Natural gas market transparency rules.
- Sec. 387. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
- Sec. 388. Federal-State liquefied natural gas forums.
- Sec. 389. Prohibition of trading and serving by certain persons.

#### Subtitle F—Federal Coalbed Methane Regulation

- Sec. 391. Federal coalbed methane regulation.

### TITLE IV—COAL

#### Subtitle A—Clean Coal Power Initiative

- Sec. 401. Authorization of appropriations.
- Sec. 402. Project criteria.
- Sec. 403. Report.
- Sec. 404. Clean coal centers of excellence.
- Sec. 405. Integrated coal/renewable energy system.
- Sec. 406. Loan to place Alaska clean coal technology facility in service.
- Sec. 407. Western integrated coal gasification demonstration project.

#### Subtitle B—Federal Coal Leases

- Sec. 411. Repeal of the 160-acre limitation for coal leases.
- Sec. 412. Mining plans.
- Sec. 413. Payment of advance royalties under coal leases.
- Sec. 414. Elimination of deadline for submission of coal lease operation and reclamation plan.
- Sec. 415. Application of amendments.

## TITLE V—INDIAN ENERGY

- Sec. 501. Short title.
- Sec. 502. Office of Indian Energy Policy and Programs.
- Sec. 503. Indian energy.
- Sec. 504. Four Corners transmission line project and electrification.
- Sec. 505. Energy efficiency in federally assisted housing.
- Sec. 506. Consultation with Indian tribes.

## TITLE VI—NUCLEAR MATTERS

### Subtitle A—Price-Anderson Act Amendments

- Sec. 601. Short title.
- Sec. 602. Extension of indemnification authority.
- Sec. 603. Maximum assessment.
- Sec. 604. Department of Energy liability limit.
- Sec. 605. Incidents outside the United States.
- Sec. 606. Reports.
- Sec. 607. Inflation adjustment.
- Sec. 608. Treatment of modular reactors.
- Sec. 609. Applicability.
- Sec. 610. Civil penalties.

### Subtitle B—General Nuclear Matters

- Sec. 621. Medical isotope production.
- Sec. 622. Safe disposal of greater-than-class C radioactive waste.
- Sec. 623. Prohibition on nuclear exports to countries that sponsor terrorism.
- Sec. 624. Decommissioning pilot program.

### Subtitle C—Next Generation Nuclear Plant Project

- Sec. 631. Project establishment.
- Sec. 632. Project management.
- Sec. 633. Project organization.
- Sec. 634. Nuclear regulatory commission.
- Sec. 635. Project timelines and authorization of appropriations.

## TITLE VII—VEHICLES AND FUELS

### Subtitle A—Existing Programs

- Sec. 701. Use of alternative fuels by dual-fueled vehicles.
- Sec. 702. Alternative fuel use by light duty vehicles.
- Sec. 703. Incremental cost allocation.
- Sec. 704. Alternative compliance and flexibility.
- Sec. 705. Report concerning compliance with alternative fueled vehicle purchasing requirements.

### Subtitle B—Automobile Efficiency

Sec. 711. Authorization of appropriations for implementation and enforcement of fuel economy standards.

Subtitle C—Miscellaneous

Sec. 721. Railroad efficiency.  
 Sec. 722. Conserve by bicycling program.  
 Sec. 723. Reduction of engine idling of heavy-duty vehicles.  
 Sec. 724. Biodiesel engine testing project.

Subtitle D—Federal and State Procurement

Sec. 731. Definitions.  
 Sec. 732. Federal and State procurement of fuel cell vehicles and hydrogen energy systems.  
 Sec. 733. Federal procurement of stationary, portable, and micro fuel cells.

TITLE VIII—HYDROGEN

Sec. 801. Hydrogen research, development, and demonstration.

TITLE IX—RESEARCH AND DEVELOPMENT

Sec. 901. Short title.  
 Sec. 902. Goals.  
 Sec. 903. Definitions.

Subtitle A—Energy Efficiency

Sec. 911. Energy efficiency.  
 Sec. 912. Next Generation Lighting Initiative.  
 Sec. 913. National Building Performance Initiative.  
 Sec. 914. Secondary electric vehicle battery use program.  
 Sec. 915. Energy Efficiency Science Initiative.

Subtitle B—Distributed Energy and Electric Energy Systems

Sec. 921. Distributed energy and electric energy systems.  
 Sec. 922. High power density industry program.  
 Sec. 923. Micro-cogeneration energy technology.  
 Sec. 924. Distributed energy technology demonstration program.  
 Sec. 925. Electric transmission and distribution programs.

Subtitle C—Renewable Energy

Sec. 931. Renewable energy.  
 Sec. 932. Bioenergy program.  
 Sec. 933. Concentrating solar power research program.  
 Sec. 934. Hybrid solar lighting research and development program.  
 Sec. 935. Miscellaneous projects.

Subtitle D—Nuclear Energy

Sec. 941. Nuclear energy.  
 Sec. 942. Nuclear energy research programs.  
 Sec. 943. Advanced fuel cycle initiative.  
 Sec. 944. Nuclear science and engineering support for institutions of higher education.  
 Sec. 945. Security of nuclear facilities.

Sec. 946. Alternatives to industrial radioactive sources.

#### Subtitle E—Fossil Energy

- Sec. 951. Fossil energy.
- Sec. 952. Oil and gas research programs.
- Sec. 953. Methane hydrate research.
- Sec. 954. Research and development for coal mining technologies.
- Sec. 955. Coal and related technologies program.
- Sec. 956. Carbon dioxide capture research and development.
- Sec. 957. Complex well technology testing facility.

#### Subtitle F—Science

- Sec. 961. Science.
- Sec. 962. Fusion energy sciences program.
- Sec. 963. Support for science and energy facilities and infrastructure.
- Sec. 964. Catalysis research program.
- Sec. 965. Hydrogen.
- Sec. 966. Solid state lighting.
- Sec. 967. Advanced scientific computing for energy missions.
- Sec. 968. Genomes to Life Program.
- Sec. 969. Fission and fusion energy materials research program.
- Sec. 970. Energy-Water Supply Technologies Program.
- Sec. 971. Spallation neutron source.

#### Subtitle G—International Cooperation

- Sec. 981. Western Hemisphere energy cooperation.
- Sec. 982. Cooperation between United States and Israel.

### TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

- Sec. 1001. Availability of funds.
- Sec. 1002. Cost sharing.
- Sec. 1003. Merit review of proposals.
- Sec. 1004. External technical review of Departmental programs.
- Sec. 1005. Improved technology transfer of energy technologies.
- Sec. 1006. Technology Infrastructure Program.
- Sec. 1007. Small business advocacy and assistance.
- Sec. 1008. Outreach.
- Sec. 1009. Relationship to other laws.
- Sec. 1010. Improved coordination and management of civilian science and technology programs.
- Sec. 1011. Other transactions authority.
- Sec. 1012. Prizes for achievement in grand challenges of science and technology.
- Sec. 1013. Technical corrections.

### TITLE XI—PERSONNEL AND TRAINING

- Sec. 1101. Workforce trends and traineeship grants.
- Sec. 1102. Energy research fellowships.
- Sec. 1103. Educational programs in science and mathematics.
- Sec. 1104. Training guidelines for electric energy industry personnel.
- Sec. 1105. National Center for Energy Management and Building Technologies.

- Sec. 1106. Improved access to energy-related scientific and technical careers.
- Sec. 1107. National Power Plant Operations Technology and Education Center.

## TITLE XII—ELECTRICITY

- Sec. 1201. Short title.

### Subtitle A—Reliability Standards

- Sec. 1211. Electric reliability standards.

### Subtitle B—Transmission Infrastructure Modernization

- Sec. 1221. Siting of interstate electric transmission facilities.
- Sec. 1222. Third-party finance.
- Sec. 1223. Advanced transmission technologies.
- Sec. 1224. Advanced power system technology incentive program.

### Subtitle C—Transmission Operation Improvements

- Sec. 1231. Open nondiscriminatory access.
- Sec. 1232. Regional Transmission Organizations.
- Sec. 1233. Federal utility participation in Transmission Organizations.
- Sec. 1234. Standard market design.
- Sec. 1235. Native load service obligation.
- Sec. 1236. Protection of transmission contracts in the Pacific Northwest.

### Subtitle D—Transmission Rate Reform

- Sec. 1241. Transmission infrastructure investment.
- Sec. 1242. Funding new interconnection and transmission upgrades.

### Subtitle E—Amendments to PURPA

- Sec. 1251. Net metering and additional standards.
- Sec. 1252. Smart metering.
- Sec. 1253. Cogeneration and small power production purchase and sale requirements.
- Sec. 1254. Interconnection.

### Subtitle F—Market Transparency, Enforcement, and Consumer Protection

- Sec. 1261. Market transparency rules.
- Sec. 1262. False Statements.
- Sec. 1263. Market manipulation.
- Sec. 1264. Enforcement.
- Sec. 1265. Refund effective date.
- Sec. 1266. Refund authority.
- Sec. 1267. Consumer privacy and unfair trade practices.
- Sec. 1268. Office of Consumer Advocacy.
- Sec. 1269. Authority of court to prohibit persons from serving as officers, directors, and energy traders.
- Sec. 1270. Relief for extraordinary violations.

### Subtitle G—Repeal of PUHCA and Merger Reform

- Sec. 1271. Short title.
- Sec. 1272. Definitions.
- Sec. 1273. Repeal of the Public Utility Holding Company Act of 1935.



- Sec. 1274. Federal access to books and records.
- Sec. 1275. State access to books and records.
- Sec. 1276. Exemption authority.
- Sec. 1277. Affiliate transactions.
- Sec. 1278. Applicability.
- Sec. 1279. Effect on other regulations.
- Sec. 1280. Enforcement.
- Sec. 1281. Savings provisions.
- Sec. 1282. Implementation.
- Sec. 1283. Transfer of resources.
- Sec. 1284. Effective date.
- Sec. 1285. Service allocation.
- Sec. 1286. Authorization of appropriations.
- Sec. 1287. Conforming amendments to the Federal Power Act.
- Sec. 1288. Merger review reform.

#### Subtitle H—Definitions

- Sec. 1291. Definitions.

#### Subtitle I—Technical and Conforming Amendments

- Sec. 1295. Conforming amendments.

### TITLE XIII—STUDIES

- Sec. 1301. Energy and water saving measures in congressional buildings.
- Sec. 1302. Increased hydroelectric generation at existing Federal facilities.
- Sec. 1303. Alaska Natural Gas Pipeline.
- Sec. 1304. Renewable energy on Federal land.
- Sec. 1305. Coal bed methane study.
- Sec. 1306. Backup fuel capability study.
- Sec. 1307. Indian land rights-of-way.
- Sec. 1308. Review of Energy Policy Act of 1992 programs.
- Sec. 1309. Study of feasibility and effects of reducing use of fuel for automobiles.
- Sec. 1310. Hybrid distributed power systems.
- Sec. 1311. Mobility of scientific and technical personnel.
- Sec. 1312. National Academy of Sciences report.
- Sec. 1313. Report on research and development program evaluation methodologies.
- Sec. 1314. Transmission system monitoring study.
- Sec. 1315. Interagency review of competition in the wholesale and retail markets for electric energy.
- Sec. 1316. Study on the benefits of economic dispatch.
- Sec. 1317. Study of rapid electrical grid restoration.
- Sec. 1318. Study of distributed generation.
- Sec. 1319. Study on inventory of petroleum and natural gas storage.
- Sec. 1320. Natural gas supply shortage report.
- Sec. 1321. Split-estate Federal oil and gas leasing and development practices.
- Sec. 1322. Resolution of Federal resource development conflicts in the Powder River Basin.
- Sec. 1323. Study of energy efficiency standards.
- Sec. 1324. Telecommuting study.
- Sec. 1325. Oil bypass filtration technology.
- Sec. 1326. Total integrated thermal systems.

Sec. 1327. University collaboration.  
 Sec. 1328. Hydrogen participation study.

#### TITLE XIV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

Sec. 1401. Definitions.  
 Sec. 1402. Terms and conditions.  
 Sec. 1403. Eligible projects.  
 Sec. 1404. Authorization of appropriations.

### 1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) DEPARTMENT.—The term “Department”  
 4 means the Department of Energy.

5 (2) INSTITUTION OF HIGHER EDUCATION.—The  
 6 term “institution of higher education” has the  
 7 meaning given the term in section 101(a) of the  
 8 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

9 (3) NATIONAL LABORATORY.—The term “Na-  
 10 tional Laboratory” means any of the following lab-  
 11 oratories owned by the Department:

12 (A) Ames Laboratory.

13 (B) Argonne National Laboratory.

14 (C) Brookhaven National Laboratory.

15 (D) Fermi National Accelerator Labora-  
 16 tory.

17 (E) Idaho National Laboratory.

18 (F) Lawrence Berkeley National Labora-  
 19 tory.

20 (G) Lawrence Livermore National Labora-  
 21 tory.

1 (H) Los Alamos National Laboratory.

2 (I) National Energy Technology Labora-  
3 tory.

4 (J) National Renewable Energy Labora-  
5 tory.

6 (K) Oak Ridge National Laboratory.

7 (L) Pacific Northwest National Labora-  
8 tory.

9 (M) Princeton Plasma Physics Laboratory.

10 (N) Sandia National Laboratories.

11 (O) Stanford Linear Accelerator Center.

12 (P) Thomas Jefferson National Accelerator  
13 Facility.

14 (4) SECRETARY.—The term “Secretary” means  
15 the Secretary of Energy.

16 (5) SMALL BUSINESS CONCERN.—The term  
17 “small business concern” has the meaning given the  
18 term in section 3 of the Small Business Act (15  
19 U.S.C. 632).

1     **TITLE I—ENERGY EFFICIENCY**

2         **Subtitle A—Federal Programs**

3     **SEC. 101. ENERGY AND WATER SAVING MEASURES IN CON-**  
 4                 **GRESSIONAL BUILDINGS.**

5         (a) IN GENERAL.—Part 3 of title V of the National  
 6     Energy Conservation Policy Act (42 U.S.C. 8251 et seq.)  
 7     is amended—

8             (1) by redesignating section 551 (42 U.S.C.  
 9             8259) as section 553; and

10            (2) by inserting after section 550 (42 U.S.C.  
 11            8258b) the following:

12     **“SEC. 551. ENERGY AND WATER SAVINGS MEASURES IN**  
 13                 **CONGRESSIONAL BUILDINGS.**

14         “(a) DEFINITIONS.—In this section:

15             “(1) CONGRESSIONAL BUILDING.—The term  
 16             ‘congressional building’ means a facility adminis-  
 17             tered by Congress.

18             “(2) PLAN.—The term ‘plan’ means an energy  
 19             conservation and management plan developed under  
 20             subsection (b)(1).

21         “(b) PLAN.—

22             “(1) IN GENERAL.—The Architect of the Cap-  
 23             itol shall develop, update, and implement a cost-ef-  
 24             fective energy conservation and management plan  
 25             for congressional buildings to meet the energy per-

1 performance requirements for Federal buildings estab-  
2 lished under section 543(a)(1).

3 “(2) REQUIREMENTS.—The plan shall in-  
4 clude—

5 “(A) a description of the life-cycle cost  
6 analysis used to determine the cost-effectiveness  
7 of proposed energy efficiency projects;

8 “(B) a schedule that ensures that complete  
9 energy surveys of all congressional buildings are  
10 conducted every 5 years to determine the cost  
11 and payback period of energy and water con-  
12 servation measures;

13 “(C) a strategy for installation of life-cycle  
14 cost-effective energy and water conservation  
15 measures;

16 “(D) the results of a study of the costs  
17 and benefits of installation of submetering in  
18 congressional buildings; and

19 “(E) information packages and ‘how-to’  
20 guides for each Member and employing author-  
21 ity of Congress that describe simple and cost-  
22 effective methods to save energy and taxpayer  
23 dollars in congressional buildings.

24 “(3) SUBMISSION TO CONGRESS.—Not later  
25 than 180 days after the date of enactment of the

1 Energy Policy Act of 2005, the Architect of the Cap-  
 2 itol shall submit to Congress the plan developed  
 3 under paragraph (1).

4 “(c) ANNUAL REPORT.—

5 “(1) IN GENERAL.—The Architect of the Cap-  
 6 itol shall annually submit to Congress a report on  
 7 congressional energy management and conservation  
 8 programs carried out for congressional buildings  
 9 under this section.

10 “(2) REQUIREMENTS.—A report submitted  
 11 under paragraph (1) shall describe in detail—

12 “(A) energy expenditures and savings esti-  
 13 mates for each congressional building;

14 “(B) any energy management and con-  
 15 servation projects for congressional buildings;  
 16 and

17 “(C) future priorities to ensure compliance  
 18 with this section.”.

19 (b) CONFORMING AMENDMENT.—The table of con-  
 20 tents of the National Energy Conservation Policy Act is  
 21 amended—

22 (1) by redesignating the item relating to section  
 23 551 as section 553; and

24 (2) by inserting after the item relating to sec-  
 25 tion 550 the following:

“Sec. 551. Energy and water savings measures in congressional buildings.”.

1 (c) REPEAL.—Section 310 of the Legislative Branch  
2 Appropriations Act, 1999 (2 U.S.C. 1815), is repealed.

3 (d) ENERGY INFRASTRUCTURE.—

4 (1) IN GENERAL.—The Architect of the Capitol,  
5 building on the Master Plan Study for the Capitol  
6 complex completed in July 2000, shall commission a  
7 study to evaluate the energy infrastructure of the  
8 Capitol complex to determine how to augment the  
9 infrastructure to become more energy efficient—

10 (A) by using unconventional and renewable  
11 energy resources; and

12 (B) in a manner that would enable the  
13 Capitol complex to have reliable utility service  
14 in the event of power fluctuations, shortages, or  
15 outages.

16 (2) AUTHORIZATION OF APPROPRIATIONS.—  
17 There is authorized to be appropriated to the Archi-  
18 tect of the Capitol to carry out this section  
19 \$2,000,000 for each of fiscal years 2006 through  
20 2010.

21 **SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.**

22 (a) ENERGY REDUCTION GOALS.—Section 543(a) of  
23 the National Energy Conservation Policy Act (42 U.S.C.  
24 8253(a)) is amended—

1           (1) in paragraph (1), by striking “Subject to”  
 2           and all that follows and inserting “(A) Subject to  
 3           paragraph (2), each agency shall apply energy con-  
 4           servation measures to, and shall improve the design  
 5           for the construction of, the Federal buildings of the  
 6           agency (including each industrial or laboratory facil-  
 7           ity) so that the energy consumption for each gross  
 8           square foot of the Federal buildings of the agency  
 9           for fiscal years 2006 through 2015 is reduced, as  
 10          compared with the energy consumption for each  
 11          gross square foot of the Federal buildings of the  
 12          agency for fiscal year 2004, by the percentage speci-  
 13          fied in the following table:

<b>“Fiscal Year</b>	<b>Percentage reduction</b>
2006 .....	2
2007 .....	4
2008 .....	6
2009 .....	8
2010 .....	10
2011 .....	12
2012 .....	14
2013 .....	16
2014 .....	18
2015 .....	20.

14          “(B) The energy reduction goals and baseline estab-  
 15          lished in subparagraph (A) supersede—

16               “(i) all goals and baselines under this para-  
 17          graph in effect on the day before the date of enact-  
 18          ment of this subparagraph; and

19               “(ii) any related reporting requirements.”; and  
 20          (2) by adding at the end the following:



1 “(3) Not later than December 31, 2013, the Sec-  
2 retary shall—

3 “(A) review the results of the implementation of  
4 the energy performance requirement established  
5 under paragraph (1); and

6 “(B) submit to Congress recommendations con-  
7 cerning energy performance requirements for each of  
8 fiscal years 2015 through 2024.”.

9 (b) EXCLUSIONS; REVIEW BY SECRETARY; CRI-  
10 TERIA.—Section 543(c) of the National Energy Conserva-  
11 tion Policy Act (42 U.S.C. 8253(c)) is amended—

12 (1) in paragraph (1), by striking “An agency  
13 may exclude” and all that follows and inserting “(A)  
14 An agency may exclude, from the energy perform-  
15 ance requirement for a fiscal year established under  
16 subsection (a) and the energy management require-  
17 ment established under subsection (b), any Federal  
18 building or collection of Federal buildings, if the  
19 head of the agency finds that—

20 “(i) compliance with those requirements would  
21 be impracticable;

22 “(ii) the agency has completed and submitted  
23 all federally required energy management reports;

24 “(iii) the agency has achieved compliance with  
25 the energy efficiency requirements of this Act, the

1 Energy Policy Act of 1992 (42 U.S.C. 13201 et  
2 seq.), Executive orders, and other Federal law; and

3 “(iv) the agency has implemented all prac-  
4 ticable, life-cycle cost-effective projects with respect  
5 to the Federal building or collection of Federal  
6 buildings to be excluded.

7 “(B) A finding of impracticability under subpara-  
8 graph (A)(i) shall be based on—

9 “(i) the energy intensiveness of activities car-  
10 ried out in the Federal building or collection of Fed-  
11 eral buildings; or

12 “(ii) the fact that the Federal building or col-  
13 lection of Federal buildings is used in the perform-  
14 ance of a national security function.”;

15 (2) in paragraph (2)—

16 (A) in the second sentence—

17 (i) by striking “impracticability stand-  
18 ards” and inserting “standards for exclu-  
19 sion”; and

20 (ii) by striking “a finding of imprac-  
21 ticability” and inserting “the exclusion”;  
22 and

23 (B) in the third sentence, by striking “en-  
24 ergy consumption requirements” and inserting

1 “requirements of subsections (a) and (b)(1)”;  
 2 and

3 (3) by adding at the end the following:

4 “(3) Not later than 180 days after the date of enact-  
 5 ment of this paragraph, the Secretary shall issue guide-  
 6 lines that establish criteria for exclusions under paragraph  
 7 (1).”.

8 (c) RETENTION OF ENERGY AND WATER SAVINGS.—  
 9 Section 546 of the National Energy Conservation Policy  
 10 Act (42 U.S.C. 8256) is amended—

11 (1) in subsection (d)(2)(G), by inserting “of the  
 12 Energy Policy Act of 1992 (42 U.S.C. 8262e)” after  
 13 “159”; and

14 (2) by adding at the end the following:

15 “(e) RETENTION OF ENERGY AND WATER SAV-  
 16 INGS.—(1) An agency may retain any funds appropriated  
 17 to the agency for energy expenditures, water expenditures,  
 18 or wastewater treatment expenditures, at buildings subject  
 19 to the requirements of subsections (a) and (b) of section  
 20 543, that are not expended because of energy savings or  
 21 water savings.

22 “(2) Except as otherwise provided by law, funds de-  
 23 scribed in paragraph (1) may be used by an agency only  
 24 for energy efficiency, water conservation, or unconven-  
 25 tional and renewable energy resources projects.”.

1 (d) REPORTS.—Section 548(b) of the National En-  
 2 ergy Conservation Policy Act (42 U.S.C. 8258(b)) is  
 3 amended—

4 (1) in the subsection heading, by inserting  
 5 “THE PRESIDENT AND” before “CONGRESS”; and

6 (2) by inserting “President and” before “Con-  
 7 gress”.

8 (e) CONFORMING AMENDMENT.—Section 550(d) of  
 9 the National Energy Conservation Policy Act (42 U.S.C.  
 10 8258b(d)) is amended in the second sentence by striking  
 11 “the 20 percent reduction goal established under section  
 12 543(a) of the National Energy Conservation Policy Act  
 13 (42 U.S.C. 8253(a)).” and inserting “each of the energy  
 14 reduction goals established under section 543(a).”.

15 **SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNT-**  
 16 **ABILITY.**

17 Section 543 of the National Energy Conservation  
 18 Policy Act (42 U.S.C. 8253) is amended by adding at the  
 19 end the following:

20 “(e) METERING OF ENERGY USE.—(1)(A) Not later  
 21 than October 1, 2012, in accordance with guidelines estab-  
 22 lished by the Secretary under paragraph (2), each Federal  
 23 building shall, for the purposes of efficient use of energy  
 24 and reduction in the cost of electricity used in the build-  
 25 ing, be metered or submetered.

1       “(B) Each agency shall use, to the maximum extent  
2 practicable, advanced meters or advanced metering devices  
3 that provide data at least daily on, and that measure at  
4 least hourly, consumption of electricity in the Federal  
5 buildings of the agency.

6       “(C) The data shall be—

7               “(i) incorporated into Federal energy tracking  
8 systems; and

9               “(ii) made available to Federal facility energy  
10 managers.

11       “(2)(A) Not later than 180 days after the date of  
12 enactment of this subsection, the Secretary (in consulta-  
13 tion with the Secretary of Defense, the Administrator of  
14 General Services, representatives from the metering indus-  
15 try, utility industry, energy services industry, energy effi-  
16 ciency industry, energy efficiency advocacy organizations,  
17 national laboratories, and universities, and Federal facility  
18 energy managers) shall establish guidelines for agencies  
19 to carry out paragraph (1).

20       “(B) The guidelines shall—

21               “(i) take into consideration—

22                       “(I) the cost of metering and submetering  
23 and the reduced cost of operation and mainte-  
24 nance expected to result from metering and  
25 submetering;

1           “(II) the extent to which metering and  
2           submetering are expected to result in increased  
3           potential for energy management, increased po-  
4           tential for energy savings and energy efficiency  
5           improvement, and cost and energy savings be-  
6           cause of utility contract aggregation; and

7           “(III) the measurement and verification  
8           protocols of the Department of Energy;

9           “(ii) include recommendations concerning the  
10          amount of funds and the number of trained per-  
11          sonnel necessary to gather and use the metering in-  
12          formation to track and reduce energy use;

13          “(iii) establish priorities for types and locations  
14          of buildings to be metered and submetered based on  
15          cost-effectiveness and a schedule of 1 or more dates,  
16          not later than 1 year after the date of issuance of  
17          the guidelines, on which paragraph (1) takes effect;  
18          and

19          “(iv) establish exclusions from the requirements  
20          of paragraph (1) based on the de minimis quantity  
21          of energy use of a Federal building, industrial proc-  
22          ess, or structure.

23          “(3) Not later than 180 days after the date on which  
24          guidelines are established under paragraph (2), in a report  
25          submitted by an agency under section 548(a), the agency

1 shall submit to the Secretary a plan describing the manner  
 2 in which the agency will implement paragraph (1), includ-  
 3 ing—

4 “(A) the manner in which the agency will des-  
 5 ignate personnel primarily responsible for carrying  
 6 out that implementation; and

7 “(B) demonstration by the agency, complete  
 8 with documentation, of any finding that the use of  
 9 advanced meters or advanced metering devices de-  
 10 scribed in paragraph (1) is not practicable.”.

11 **SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PROD-**  
 12 **UCTS.**

13 (a) REQUIREMENTS.—Part 3 of title V of the Na-  
 14 tional Energy Conservation Policy Act (42 U.S.C. 8251  
 15 et seq.) (as amended by section 101(a)) is amended by  
 16 inserting after section 551 the following:

17 **“SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFI-**  
 18 **CIENT PRODUCTS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) The term ‘Energy Star product’ means a  
 21 product that is rated for energy efficiency under an  
 22 Energy Star program.

23 “(2) The term ‘Energy Star program’ means  
 24 the program established by section 324A of the En-  
 25 ergy Policy and Conservation Act.

1           “(3) The term ‘executive agency’ has the mean-  
 2           ing given the term in section 4 of the Office of Fed-  
 3           eral Procurement Policy Act (41 U.S.C. 403).

4           “(4) The term ‘FEMP designated product’  
 5           means a product that is designated under the Fed-  
 6           eral Energy Management Program of the Depart-  
 7           ment of Energy as being among the highest 25 per-  
 8           cent of equivalent products for energy efficiency.

9           “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-  
 10          UCTS.—(1) Except as provided in paragraph (2), to meet  
 11          the requirements of an executive agency for an energy con-  
 12          suming product, the head of the executive agency shall  
 13          procure—

14                 “(A) an Energy Star product; or

15                 “(B) a FEMP designated product.

16          “(2) The head of an executive agency shall not be  
 17          required to comply with paragraph (1) if the head of the  
 18          executive agency specifies in writing that—

19                 “(A) taking into account energy cost savings,  
 20          an Energy Star product or FEMP designated prod-  
 21          uct is not cost-effective over the life of the product;  
 22          or

23                 “(B) no Energy Star product or FEMP des-  
 24          ignated product is reasonably available that meets  
 25          the functional requirements of the executive agency.



1       “(3) The head of an executive agency shall incor-  
 2       porate criteria for energy efficiency that are consistent  
 3       with the criteria used for rating Energy Star products and  
 4       FEMP designated products into—

5               “(A) the specifications for any procurements in-  
 6       volving energy consuming products and systems, in-  
 7       cluding—

8                       “(i) guide specifications;

9                       “(ii) project specifications; and

10                      “(iii) construction, renovation, and services  
 11       contracts that include the provision of energy  
 12       consuming products and systems; and

13               “(B) the factors for the evaluation of offers re-  
 14       ceived for the procurement.

15       “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN  
 16       FEDERAL CATALOGS.—(1) Any inventory or listing of  
 17       products by the General Services Administration or the  
 18       Defense Logistics Agency shall clearly identify and promi-  
 19       nently display Energy Star products and FEMP des-  
 20       ignated products.

21       “(2)(A) Except as provided in subparagraph (B), the  
 22       General Services Administration or the Defense Logistics  
 23       Agency shall supply only Energy Star products or FEMP  
 24       designated products for all product categories covered by

1 the Energy Star program or the Federal Energy Manage-  
2 ment Program.

3 “(B) Subparagraph (A) shall not apply if an agency  
4 ordering a product specifies in writing that—

5 “(i) taking into account energy cost savings, no  
6 Energy Star product or FEMP designated product  
7 is cost-effective for the intended application over the  
8 life of the product; or

9 “(ii) no Energy Star product or FEMP des-  
10 ignated product is available to meet the functional  
11 requirements of the ordering agency.

12 “(d) SPECIFIC PRODUCTS.—(1) In the case of an  
13 electric motor of 1 to 500 horsepower, an executive agency  
14 shall select only a premium efficient motor that meets the  
15 standard established by the Secretary under paragraph  
16 (2).

17 “(2) Not later than 120 days after the date of enact-  
18 ment of this subsection and after considering the rec-  
19 ommendations of associated electric motor manufacturers  
20 and energy efficiency groups, the Secretary shall establish  
21 a standard for premium efficient motors.

22 “(3)(A) Each Federal agency is encouraged to take  
23 actions (such as appropriate cleaning and maintenance)  
24 to maximize the efficiency of air conditioning and refrig-

1 eration equipment, including the use of a system treat-  
2 ment or additive that—

3 “(i) would reduce the electricity consumed by  
4 air conditioning and refrigeration equipment; and

5 “(ii) meets the criteria specified in subpara-  
6 graph (B).

7 “(B) A system treatment or additive referred to in  
8 subparagraph (A) shall be—

9 “(i) determined by the Secretary to be effective  
10 in increasing the efficiency of air conditioning and  
11 refrigeration equipment without having an adverse  
12 impact on—

13 “(I) air conditioning and refrigeration per-  
14 formance (including cooling capacity); or

15 “(II) the useful life of the equipment;

16 “(ii) determined by the Administrator of the  
17 Environmental Protection Agency to be environ-  
18 mentally safe; and

19 “(iii) shown, in tests conducted by the National  
20 Institute of Standards and Technology, in accord-  
21 ance with Department of Energy test procedures, to  
22 increase the seasonal energy efficiency ratio (SEER)  
23 or energy efficiency ratio (EER) without having any  
24 adverse impact on the system, system components,

1 the refrigerant or lubricant, or other materials in the  
2 system.

3 “(4) The results of the tests described in paragraph  
4 (3)(B)(iii) shall be published in the Federal Register for  
5 public review and comment.

6 “(5) For purposes of this subsection, a hardware de-  
7 vice or primary refrigerant shall not be considered an ad-  
8 ditive.

9 “(e) REGULATIONS.—Not later than 180 days after  
10 the date of enactment of this section, the Secretary shall  
11 issue guidelines to carry out this section.”.

12 (b) CONFORMING AMENDMENT.—The table of con-  
13 tents of the National Energy Conservation Policy Act (as  
14 amended by section 101(b)) is amended by inserting after  
15 the item relating to section 551 the following:

“Sec. 552. Federal procurement of energy efficient products.”.

16 **SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

17 (a) PERMANENT EXTENSION.—Section 801(c) of the  
18 National Energy Conservation Policy Act (42 U.S.C.  
19 8287(c)) is amended by striking “2006” and inserting  
20 “2016”.

21 (b) EXTENSION OF AUTHORITY.—Any energy sav-  
22 ings performance contract entered into under section 801  
23 of the National Energy Conservation Policy Act (42  
24 U.S.C. 8287) after October 1, 2003, and before the date

1 of enactment of this Act, shall be considered to have been  
2 entered into under that section.

3 **SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUS-**  
4 **TRIAL ENERGY INTENSITY.**

5 (a) DEFINITION OF ENERGY INTENSITY.—In this  
6 section, the term “energy intensity” means the primary  
7 energy consumed for each unit of physical output in an  
8 industrial process.

9 (b) VOLUNTARY AGREEMENTS.—The Secretary may  
10 enter into voluntary agreements with 1 or more persons  
11 in industrial sectors that consume significant quantities  
12 of primary energy for each unit of physical output to re-  
13 duce the energy intensity of the production activities of  
14 the persons.

15 (c) GOAL.—Voluntary agreements under this section  
16 shall have as a goal the reduction of energy intensity by  
17 not less than 2.5 percent each year during the period of  
18 calendar years 2007 through 2016.

19 (d) RECOGNITION.—The Secretary, in cooperation  
20 with other appropriate Federal agencies, shall develop  
21 mechanisms to recognize and publicize the achievements  
22 of participants in voluntary agreements under this section.

23 (e) TECHNICAL ASSISTANCE.—A person that enters  
24 into an agreement under this section and continues to  
25 make a good faith effort to achieve the energy efficiency

1 goals specified in the agreement shall be eligible to receive  
 2 from the Secretary a grant or technical assistance, as ap-  
 3 propriate, to assist in the achievement of those goals.

4 (f) REPORT.—Not later than each of June 30, 2012,  
 5 and June 30, 2017, the Secretary shall submit to Con-  
 6 gress a report that—

7 (1) evaluates the success of the voluntary agree-  
 8 ments under this section; and

9 (2) provides independent verification of a sam-  
 10 ple of the energy savings estimates provided by par-  
 11 ticipating firms.

12 **SEC. 107. FEDERAL BUILDING PERFORMANCE STANDARDS.**

13 Section 305(a) of the Energy Conservation and Pro-  
 14 duction Act (42 U.S.C. 6834(a)) is amended—

15 (1) in paragraph (2)(A), by striking “CABO  
 16 Model Energy Code, 1992 (in the case of residential  
 17 buildings) or ASHRAE Standard 90.1–1989” and  
 18 inserting “the 2004 International Energy Conserva-  
 19 tion Code (in the case of residential buildings) or  
 20 ASHRAE Standard 90.1–2004”; and

21 (2) by adding at the end the following:

22 “(3)(A) Not later than 1 year after the date of enact-  
 23 ment of this paragraph, the Secretary shall establish, by  
 24 rule, revised Federal building energy efficiency perform-  
 25 ance standards that require that—

1           “(i) if life-cycle cost-effective for new Federal  
2       buildings—

3           “(I) the buildings be designed to achieve  
4       energy consumption levels that are at least 30  
5       percent below the levels established in the  
6       version of the ASHRAE Standard or the Inter-  
7       national Energy Conservation Code, as appro-  
8       priate, that is in effect as of the date of enact-  
9       ment of this paragraph; and

10          “(II) sustainable design principles are ap-  
11       plied to the siting, design, and construction of  
12       all new and replacement buildings; and

13          “(ii) if water is used to achieve energy effi-  
14       ciency, water conservation technologies shall be ap-  
15       plied to the extent that the technologies are life-cycle  
16       cost-effective.

17          “(B) Not later than 1 year after the date of approval  
18       of each subsequent revision of the ASHRAE Standard or  
19       the International Energy Conservation Code, as appro-  
20       priate, the Secretary shall determine, based on the cost-  
21       effectiveness of the requirements under the amendment,  
22       whether the revised standards established under this para-  
23       graph should be updated to reflect the amendment.

24          “(C) In the budget request of the Federal agency for  
25       each fiscal year and each report submitted by the Federal

1 agency under section 548(a) of the National Energy Con-  
 2 servation Policy Act (42 U.S.C. 8258(a)), the head of each  
 3 Federal agency shall include—

4 “(i) a list of all new Federal buildings owned,  
 5 operated, or controlled by the Federal agency; and

6 “(ii) a statement specifying whether the Federal  
 7 buildings meet or exceed the revised standards es-  
 8 tablished under this paragraph.”.

9 **SEC. 108. INCREASED USE OF RECOVERED MINERAL COM-**  
 10 **PONENT IN FEDERALLY FUNDED PROJECTS**  
 11 **INVOLVING PROCUREMENT OF CEMENT OR**  
 12 **CONCRETE.**

13 (a) AMENDMENT.—Subtitle F of the Solid Waste  
 14 Disposal Act (42 U.S.C. 6961 et seq.) is amended by add-  
 15 ing at the end the following:

16 “INCREASED USE OF RECOVERED MINERAL COMPONENT  
 17 IN FEDERALLY FUNDED PROJECTS INVOLVING PRO-  
 18 CUREMENT OF CEMENT OR CONCRETE

19 “SEC. 6005. (a) DEFINITIONS.—In this section:

20 “(1) AGENCY HEAD.—The term ‘agency head’  
 21 means—

22 “(A) the Secretary of Transportation; and

23 “(B) the head of any other Federal agency  
 24 that, on a regular basis, procures, or provides  
 25 Federal funds to pay or assist in paying the



1 cost of procuring, material for cement or con-  
 2 crete projects.

3 “(2) CEMENT OR CONCRETE PROJECT.—The  
 4 term ‘cement or concrete project’ means a project  
 5 for the construction or maintenance of a highway or  
 6 other transportation facility or a Federal, State, or  
 7 local government building or other public facility  
 8 that—

9 “(A) involves the procurement of cement  
 10 or concrete; and

11 “(B) is carried out, in whole or in part,  
 12 using Federal funds.

13 “(3) RECOVERED MINERAL COMPONENT.—The  
 14 term ‘recovered mineral component’ means—

15 “(A) ground granulated blast furnace slag;

16 “(B) coal combustion fly ash; and

17 “(C) any other waste material or byprod-  
 18 uct recovered or diverted from solid waste that  
 19 the Administrator, in consultation with an  
 20 agency head, determines should be treated as  
 21 recovered mineral component under this section  
 22 for use in cement or concrete projects paid for,  
 23 in whole or in part, by the agency head.

24 “(b) IMPLEMENTATION OF REQUIREMENTS.—

1           “(1) IN GENERAL.—Not later than 1 year after  
 2           the date of enactment of this section, the Adminis-  
 3           trator and each agency head shall take such actions  
 4           as are necessary to implement fully all procurement  
 5           requirements and incentives in effect as of the date  
 6           of enactment of this section (including guidelines  
 7           under section 6002) that provide for the use of ce-  
 8           ment and concrete incorporating recovered mineral  
 9           component in cement or concrete projects.

10           “(2) PRIORITY.—In carrying out paragraph (1),  
 11           an agency head shall give priority to achieving great-  
 12           er use of recovered mineral component in cement or  
 13           concrete projects for which recovered mineral compo-  
 14           nents historically have not been used or have been  
 15           used only minimally.

16           “(3) FEDERAL PROCUREMENT REQUIRE-  
 17           MENTS.—The Administrator and each agency head  
 18           shall carry out this subsection in accordance with  
 19           section 6002.

20           “(c) FULL IMPLEMENTATION STUDY.—

21           “(1) IN GENERAL.—The Administrator, in co-  
 22           operation with the Secretary of Transportation and  
 23           the Secretary of Energy, shall conduct a study to de-  
 24           termine the extent to which procurement require-  
 25           ments, when fully implemented in accordance with

1 subsection (b), may realize energy savings and envi-  
 2 ronmental benefits attainable with substitution of re-  
 3 covered mineral component in cement used in ce-  
 4 ment or concrete projects.

5 “(2) MATTERS TO BE ADDRESSED.—The study  
 6 shall—

7 “(A) quantify—

8 “(i) the extent to which recovered  
 9 mineral components are being substituted  
 10 for Portland cement, particularly as a re-  
 11 sult of procurement requirements; and

12 “(ii) the energy savings and environ-  
 13 mental benefits associated with the substi-  
 14 tution;

15 “(B) identify all barriers in procurement  
 16 requirements to greater realization of energy  
 17 savings and environmental benefits, including  
 18 barriers resulting from exceptions from the law;  
 19 and

20 “(C)(i) identify potential mechanisms to  
 21 achieve greater substitution of recovered min-  
 22 eral component in types of cement or concrete  
 23 projects for which recovered mineral compo-  
 24 nents historically have not been used or have  
 25 been used only minimally;

1           “(ii) evaluate the feasibility of establishing  
2           guidelines or standards for optimized substi-  
3           tution rates of recovered mineral component in  
4           those cement or concrete projects; and

5           “(iii) identify any potential environmental  
6           or economic effects that may result from great-  
7           er substitution of recovered mineral component  
8           in those cement or concrete projects.

9           “(3) REPORT.—Not later than 30 months after  
10          the date of enactment of this section, the Adminis-  
11          trator shall submit to Congress a report on the  
12          study.

13          “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—  
14          Unless the study conducted under subsection (c) identifies  
15          any effects or other problems described in subsection  
16          (c)(2)(C)(iii) that warrant further review or delay, the Ad-  
17          ministrators and each agency head shall, not later than 1  
18          year after the date on which the report under subsection  
19          (c)(3) is submitted, take additional actions under this Act  
20          to establish procurement requirements and incentives that  
21          provide for the use of cement and concrete with increased  
22          substitution of recovered mineral component in the con-  
23          struction and maintenance of cement or concrete  
24          projects—

1 “(1) to realize more fully the energy savings  
 2 and environmental benefits associated with increased  
 3 substitution; and

4 “(2) to eliminate barriers identified under sub-  
 5 section (c)(2)(B).

6 “(e) EFFECT OF SECTION.—Nothing in this section  
 7 affects the requirements of section 6002 (including the  
 8 guidelines and specifications for implementing those re-  
 9 quirements).”.

10 (b) CONFORMING AMENDMENT.—The table of con-  
 11 tents of the Solid Waste Disposal Act is amended by add-  
 12 ing after the item relating to section 6004 the following:  
 “Sec. 6005. Increased use of recovered mineral component in federally funded  
 projects involving procurement of cement or concrete.”.

## 13 **Subtitle B—Energy Assistance and** 14 **State Programs**

### 15 **SEC. 121. WEATHERIZATION ASSISTANCE.**

16 Section 422 of the Energy Conservation and Produc-  
 17 tion Act (42 U.S.C. 6872) is amended by striking “for  
 18 fiscal years 1999 through 2003 such sums as may be nec-  
 19 essary” and inserting “\$325,000,000 for fiscal year 2006,  
 20 \$400,000,000 for fiscal year 2007, and \$500,000,000 for  
 21 fiscal year 2008”.

1 **SEC. 122. STATE ENERGY PROGRAMS.**

2 (a) STATE ENERGY CONSERVATION PLANS.—Section  
3 362 of the Energy Policy and Conservation Act (42 U.S.C.  
4 6322) is amended by adding at the end the following:

5 “(g)(1) The Secretary shall, at least once every 3  
6 years, invite the Governor of each State to review and,  
7 if necessary, revise the energy conservation plan of the  
8 State submitted under subsection (b) or (e).

9 “(2) A review conducted under paragraph (1)  
10 should—

11 “(A) consider the energy conservation plans of  
12 other States within the region; and

13 “(B) identify opportunities and actions carried  
14 out in pursuit of common energy conservation  
15 goals.”.

16 (b) STATE ENERGY EFFICIENCY GOALS.—Section  
17 364 of the Energy Policy and Conservation Act (42 U.S.C.  
18 6324) is amended to read as follows:

19 “STATE ENERGY EFFICIENCY GOALS

20 “SEC. 364. Each State energy conservation plan with  
21 respect to which assistance is made available under this  
22 part on or after the date of enactment of the Energy Pol-  
23 icy Act of 2005—

24 “(1) shall contain a goal, consisting of an im-  
25 provement of 25 percent or more in the efficiency of

1 use of energy in the State concerned in calendar  
 2 year 2012 as compared to calendar year 1992; and

3 “(2) may contain interim goals.”.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
 5 365(f) of the Energy Policy and Conservation Act (42  
 6 U.S.C. 6325(f)) is amended by striking “for fiscal years  
 7 1999 through 2003 such sums as may be necessary” and  
 8 inserting “\$100,000,000 for each of fiscal years 2006 and  
 9 2007 and \$125,000,000 for fiscal year 2008”.

10 **SEC. 123. ENERGY EFFICIENT APPLIANCE REBATE PRO-**  
 11 **GRAMS.**

12 (a) DEFINITIONS.—In this section:

13 (1) ELIGIBLE STATE.—The term “eligible  
 14 State” means a State that meets the requirements  
 15 of subsection (b).

16 (2) ENERGY STAR PROGRAM.—The term “En-  
 17 ergy Star program” means the program established  
 18 by section 324A of the Energy Policy and Conserva-  
 19 tion Act (as added by section 131(a)).

20 (3) RESIDENTIAL ENERGY STAR PRODUCT.—  
 21 The term “residential Energy Star product” means  
 22 a product for a residence that is rated for energy ef-  
 23 ficiency under the Energy Star program.

24 (4) STATE ENERGY OFFICE.—The term “State  
 25 energy office” means the State agency responsible

1 for developing State energy conservation plans under  
2 section 362 of the Energy Policy and Conservation  
3 Act (42 U.S.C. 6322).

4 (5) STATE PROGRAM.—The term “State pro-  
5 gram” means a State energy efficient appliance re-  
6bate program described in subsection (b)(1).

7 (b) ELIGIBLE STATES.—A State shall be eligible to  
8 receive an allocation under subsection (c) if the State—

9 (1) establishes (or has established) a State en-  
10ergy efficient appliance rebate program to provide  
11rebates to residential consumers for the purchase of  
12residential Energy Star products to replace used ap-  
13pliances of the same type;

14 (2) submits an application for the allocation at  
15such time, in such form, and containing such infor-  
16mation as the Secretary may require; and

17 (3) provides assurances satisfactory to the Sec-  
18retary that the State will use the allocation to sup-  
19plement, but not supplant, funds made available to  
20carry out the State program.

21 (c) AMOUNT OF ALLOCATIONS.—

22 (1) IN GENERAL.—Subject to paragraph (2),  
23for each fiscal year, the Secretary shall allocate to  
24the State energy office of each eligible State to carry



1 out subsection (d) an amount equal to the product  
2 obtained by multiplying—

3 (A) the amount made available under sub-  
4 section (f) for the fiscal year; and

5 (B) by the ratio that—

6 (i) the population of the State in the  
7 most recent calendar year for which data  
8 are available; bears to

9 (ii) the total population of all eligible  
10 States in that calendar year.

11 (2) MINIMUM ALLOCATIONS.—For each fiscal  
12 year, the amounts allocated under this subsection  
13 shall be adjusted proportionately so that no eligible  
14 State is allocated a sum that is less than such min-  
15 imum amount as shall be determined by the Sec-  
16 retary.

17 (d) USE OF ALLOCATED FUNDS.—The allocation to  
18 a State energy office under subsection (c) may be used  
19 to pay not more than 50 percent of the cost of establishing  
20 and carrying out a State program.

21 (e) ISSUANCE OF REBATES.—

22 (1) IN GENERAL.—A rebate may be provided to  
23 a residential consumer that meets the requirements  
24 of the State program.

1           (2) AMOUNT.—The amount of a rebate shall be  
 2       determined by the State energy office, taking into  
 3       consideration—

4                   (A) the amount of the allocation to the  
 5       State energy office under subsection (c);

6                   (B) the amount of any Federal or State  
 7       tax incentive available for the purchase of the  
 8       residential Energy Star product; and

9                   (C) the difference between—

10                   (i) the cost of the residential Energy  
 11       Star product; and

12                   (ii) the cost of an appliance that is  
 13       not a residential Energy Star product, but  
 14       is of the same type as, and is the nearest  
 15       capacity, performance, and other relevant  
 16       characteristics (as determined by the State  
 17       energy office) to, the residential Energy  
 18       Star product.

19       (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
 20       authorized to be appropriated to the Secretary to carry  
 21       out this section \$50,000,000 for each of fiscal years 2006  
 22       through 2010.

23       **SEC. 124. ENERGY EFFICIENT PUBLIC BUILDINGS.**

24       (a) GRANTS.—The Secretary may make grants to the  
 25       State agency responsible for developing State energy con-

1 servation plans under section 362 of the Energy Policy  
2 and Conservation Act (42 U.S.C. 6322), or a State agency  
3 designated by the Governor of the State, to assist units  
4 of local government in the State in improving the energy  
5 efficiency of public buildings and facilities through—

6 (1) construction of new energy efficient public  
7 buildings that use at least 30 percent less energy  
8 than a comparable public building constructed in  
9 compliance with standards prescribed in—

10 (A) the most recent version of the Inter-  
11 national Energy Conservation Code; or

12 (B) a similar State code intended to  
13 achieve substantially equivalent efficiency levels;  
14 or

15 (2) renovation of existing public buildings to  
16 achieve reductions in energy use of at least 30 per-  
17 cent as compared to the baseline energy use in the  
18 buildings before renovation, assuming a 3-year,  
19 weather-normalized average for calculating the base-  
20 line.

21 (b) ADMINISTRATION.—State energy offices receiving  
22 grants under this section shall—

23 (1) maintain any records and evidence of com-  
24 pliance that the Secretary may require; and

1           (2) to encourage planning, financing, and de-  
 2           sign of energy efficient public buildings by units of  
 3           local government—

4                   (A) develop and distribute information and  
 5                   materials; and

6                   (B) conduct programs to provide technical  
 7                   services and assistance.

8           (c) AUTHORIZATION OF APPROPRIATIONS.—

9                   (1) IN GENERAL.—There is authorized to be  
 10           appropriated to the Secretary to carry out this sec-  
 11           tion \$30,000,000 for each of fiscal years 2006  
 12           through 2010.

13                   (2) ADMINISTRATIVE EXPENSES.—Not more  
 14           than 10 percent of amounts made available under  
 15           paragraph (1) shall be used for administrative ex-  
 16           penses.

17 **SEC. 125. LOW INCOME COMMUNITY ENERGY EFFICIENCY**  
 18 **PILOT PROGRAM.**

19           (a) DEFINITION OF INDIAN TRIBE.—In this section,  
 20           the term “Indian tribe” has the meaning given the term  
 21           in section 4 of the Indian Self-Determination and Edu-  
 22           cation Assistance Act (25 U.S.C. 450b).

23           (b) GRANTS.—

24                   (1) IN GENERAL.—The Secretary may provide  
 25           grants, on a competitive basis, to units of local gov-

ernment, private or nonprofit community development organizations, and economic development entities of Indian tribes—

(A) to improve energy efficiency;

(B) to identify and develop alternative, renewable, and distributed energy supplies; and

(C) to increase energy conservation in low-income rural and urban communities.

(2) ELIGIBLE ACTIVITIES.—The following activities are eligible for grants under paragraph (1):

(A) Investments that develop alternative, renewable, and distributed energy supplies.

(B) Energy efficiency projects and energy conservation programs.

(C) Studies and other activities that improve energy efficiency in low-income rural and urban communities.

(D) Planning and development assistance for increasing the energy efficiency of buildings and facilities.

(E) Technical and financial assistance to units of local government and private entities to develop new renewable and distributed sources of power or combined heat and power generation.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
 2 authorized to be appropriated to the Secretary to carry  
 3 out this section \$20,000,000 for each of fiscal years 2006  
 4 through 2010.

5 **SEC. 126. STATE TECHNOLOGIES ADVANCEMENT COLLABO-**  
 6 **RATIVE.**

7 (a) IN GENERAL.—The Secretary, in cooperation  
 8 with the States, shall establish a cooperative program for  
 9 research, development, demonstration, and deployment of  
 10 technologies in which there is a common Federal and State  
 11 energy efficiency, renewable energy, and fossil energy in-  
 12 terest, to be known as the “State Technologies Advance-  
 13 ment Collaborative” (referred to in this section as the  
 14 “Collaborative”).

15 (b) DUTIES.—The Collaborative shall—

16 (1) leverage Federal and State funding through  
 17 cost-shared activity;

18 (2) reduce redundancies in Federal and State  
 19 funding; and

20 (3) create multistate projects to be awarded  
 21 through a competitive process.

22 (c) ADMINISTRATION.—The Collaborative shall be  
 23 administered through an agreement between the Depart-  
 24 ment and appropriate State-based organizations.

1 (d) FUNDING SOURCES.—Funding for the Collabo-  
2 rative may be provided from—

3 (1) amounts specifically appropriated for the  
4 Collaborative; or

5 (2) amounts that may be allocated from other  
6 appropriations without changing the purpose for  
7 which the amounts are appropriated.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to carry out this section such sums as are  
10 necessary for each of fiscal years 2006 through 2010.

11 **SEC. 127. MODEL BUILDING ENERGY CODE COMPLIANCE**  
12 **GRANT PROGRAM.**

13 (a) IN GENERAL.—The Secretary shall carry out a  
14 program to provide grants to each State that the Sec-  
15 retary determines, with respect to new buildings in the  
16 State, achieves at least a 90-percent rate of compliance  
17 (based on energy performance) with the most recent model  
18 building energy codes.

19 (b) GUIDELINES.—Not later than 180 days after the  
20 date of enactment of this Act, the Secretary shall issue  
21 guidelines that standardize criteria by which a State that  
22 seeks to receive a grant under this section may—

23 (1) verify compliance with applicable model  
24 building energy codes; and

1           (2) demonstrate eligibility to receive a grant  
2           under this section.

3           (c) LOCAL GOVERNMENT CODES.—In the case of a  
4 State in which building energy codes are established by  
5 local governments—

6           (1) a local government may—

7                 (A) apply for a grant under this section;  
8                 and

9                 (B) verify compliance and demonstrate eli-  
10                 gibility for the grant under subsection (b); and

11           (2) if the Secretary determines that the local  
12 government is eligible to receive a grant, the Sec-  
13 retary may provide a grant to the local government.

14           (d) USE OF FUNDS.—Funds from a grant provided  
15 under this section may be used only to carry out activities  
16 relating to the implementation of building energy codes  
17 and building practices that exceed efficiency requirements  
18 of the most recent model building energy codes.

19           (e) AUTHORIZATION OF APPROPRIATIONS.—

20                 (1) IN GENERAL.—There is authorized to be  
21 appropriated to carry out this section \$25,000,000  
22 for each of fiscal years 2006 through 2010.

23                 (2) SET ASIDE.—Of the amounts made avail-  
24 able under paragraph (1), the Secretary may use not  
25 more than \$500,000 for each fiscal year—



- 1 (A) to develop compliance guidelines;  
2 (B) to train State and local officials; and  
3 (C) to administer grants provided under  
4 this section.

## 5 **Subtitle C—Energy Efficient** 6 **Products**

### 7 **SEC. 131. ENERGY STAR PROGRAM.**

8 (a) IN GENERAL.—The Energy Policy and Conserva-  
9 tion Act is amended by inserting after section 324 (42  
10 U.S.C. 6294) the following:

11 “ENERGY STAR PROGRAM

12 “SEC. 324A. (a) IN GENERAL.—There is established  
13 within the Department of Energy and the Environmental  
14 Protection Agency a voluntary program to identify and  
15 promote energy-efficient products and buildings in order  
16 to reduce energy consumption, improve energy security,  
17 and reduce pollution through voluntary labeling of, or  
18 other forms of communication about, products and build-  
19 ings that meet the highest energy conservation standards.

20 “(b) DIVISION OF RESPONSIBILITIES.—Responsibil-  
21 ities under the program shall be divided between the De-  
22 partment of Energy and the Environmental Protection  
23 Agency in accordance with the terms of applicable agree-  
24 ments between those agencies.

25 “(c) DUTIES.—The Administrator and the Secretary  
26 shall—

1           “(1) promote Energy Star compliant tech-  
2           nologies as the preferred technologies in the market-  
3           place for—

4                   “(A) achieving energy efficiency; and

5                   “(B) reducing pollution;

6           “(2) work to enhance public awareness of the  
7           Energy Star label, including by providing special  
8           outreach to small businesses;

9           “(3) preserve the integrity of the Energy Star  
10          label;

11          “(4) regularly update Energy Star product cri-  
12          teria for product categories;

13          “(5) solicit comments from interested parties  
14          prior to establishing or revising an Energy Star  
15          product category, specification, or criterion (or prior  
16          to effective dates for any such product category,  
17          specification, or criterion);

18          “(6) on adoption of a new or revised product  
19          category, specification, or criterion, provide reason-  
20          able notice to interested parties of any changes (in-  
21          cluding effective dates) in product categories, speci-  
22          fications, or criteria, along with—

23                   “(A) an explanation of the changes; and

24                   “(B) as appropriate, responses to com-  
25          ments submitted by interested parties; and

1 “(7) provide appropriate lead time (which shall  
 2 be 270 days, unless the Agency or Department  
 3 specifies otherwise) prior to the applicable effective  
 4 date for a new or a significant revision to a product  
 5 category, specification, or criterion, taking into ac-  
 6 count the timing requirements of the manufacturing,  
 7 product marketing, and distribution process for the  
 8 specific product addressed.

9 “(d) DEADLINES.—The Secretary shall establish new  
 10 qualifying levels—

11 “(1) not later than January 1, 2006, for clothes  
 12 washers and dishwashers, effective beginning Janu-  
 13 ary 1, 2007; and

14 “(2) not later than January 1, 2008, for clothes  
 15 washers, effective beginning January 1, 2010.”.

16 (b) TABLE OF CONTENTS AMENDMENT.—The table  
 17 of contents of the Energy Policy and Conservation Act (42  
 18 U.S.C. prec. 6201) is amended by inserting after the item  
 19 relating to section 324 the following:

“Sec. 324A. Energy Star program.”.

20 **SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION**  
 21 **PROGRAM.**

22 Section 337 of the Energy Policy and Conservation  
 23 Act (42 U.S.C. 6307) is amended by adding at the end  
 24 the following:

1       “(c) HVAC MAINTENANCE.—(1) To ensure that in-  
 2 stalled air conditioning and heating systems operate at  
 3 maximum rated efficiency levels, the Secretary shall, not  
 4 later than 180 days after the date of enactment of this  
 5 subsection, carry out a program to educate homeowners  
 6 and small business owners concerning the energy savings  
 7 from properly conducted maintenance of air conditioning,  
 8 heating, and ventilating systems.

9       “(2) The Secretary shall carry out the program under  
 10 paragraph (1), on a cost-shared basis, in cooperation with  
 11 the Administrator of the Environmental Protection Agen-  
 12 cy and any other entities that the Secretary determines  
 13 to be appropriate, including industry trade associations,  
 14 industry members, and energy efficiency organizations.

15       “(d) SMALL BUSINESS EDUCATION AND ASSIST-  
 16 ANCE.—(1) The Administrator of the Small Business Ad-  
 17 ministration, in consultation with the Secretary and the  
 18 Administrator of the Environmental Protection Agency,  
 19 shall develop and coordinate a Government-wide program,  
 20 building on the Energy Star for Small Business Program,  
 21 to assist small businesses in—

22               “(A) becoming more energy efficient;

23               “(B) understanding the cost savings from im-  
 24 proved energy efficiency; and

1           “(C) identifying financing options for energy ef-  
2           ficiency upgrades.

3           “(2) The Secretary and the Administrator of the  
4 Small Business Administration shall make program infor-  
5 mation available directly to small businesses and through  
6 other Federal agencies, including the Federal Emergency  
7 Management Agency and the Department of Agri-  
8 culture.”.

9 **SEC. 133. PUBLIC ENERGY EDUCATION PROGRAM.**

10       (a) IN GENERAL.—Not later than 180 days after the  
11 date of enactment of this Act, the Secretary shall convene  
12 an organizational conference for the purpose of estab-  
13 lishing an ongoing, self-sustaining national public energy  
14 education program.

15       (b) PARTICIPANTS.—The Secretary shall invite to  
16 participate in the conference individuals and entities rep-  
17 resenting all aspects of energy production and distribu-  
18 tion, including—

- 19           (1) industrial firms;
- 20           (2) professional societies;
- 21           (3) educational organizations;
- 22           (4) trade associations; and
- 23           (5) governmental agencies.

24       (c) PURPOSE, SCOPE, AND STRUCTURE.—

1           (1) PURPOSE.—The purpose of the conference  
2       shall be to establish an ongoing, self-sustaining na-  
3       tional public energy education program to examine  
4       and recognize interrelationships between energy  
5       sources in all forms, including—

6                   (A) conservation and energy efficiency;

7                   (B) the role of energy use in the economy;

8       and

9                   (C) the impact of energy use on the envi-  
10      ronment.

11          (2) SCOPE AND STRUCTURE.—Taking into con-  
12      sideration the purpose described in paragraph (1),  
13      the participants in the conference invited under sub-  
14      section (b) shall design the scope and structure of  
15      the program described in subsection (a).

16      (d) TECHNICAL ASSISTANCE.—The Secretary shall  
17      provide technical assistance and other guidance necessary  
18      to carry out the program described in subsection (a).

19      (e) AUTHORIZATION OF APPROPRIATIONS.—There  
20      are authorized to be appropriated such sums as are nec-  
21      essary to carry out this section.

1 **SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INI-**  
2 **TIATIVE.**

3 (a) IN GENERAL.—The Secretary shall carry out a  
4 comprehensive national program, including advertising  
5 and media awareness, to inform consumers about—

6 (1) the need to reduce energy consumption dur-  
7 ing the 4-year period beginning on the date of enact-  
8 ment of this Act;

9 (2) the benefits to consumers of reducing con-  
10 sumption of electricity, natural gas, and petroleum,  
11 particularly during peak use periods;

12 (3) the importance of low energy costs to eco-  
13 nomic growth and preserving manufacturing jobs in  
14 the United States; and

15 (4) practical, cost-effective measures that con-  
16 sumers can take to reduce consumption of elec-  
17 tricity, natural gas, and gasoline, including—

18 (A) maintaining and repairing heating and  
19 cooling ducts and equipment;

20 (B) weatherizing homes and buildings;

21 (C) purchasing energy efficient products;

22 and

23 (D) proper tire maintenance.

24 (b) COOPERATION.—The program carried out under  
25 subsection (a) shall—

1           (1) include collaborative efforts with State and  
2           local government officials and the private sector; and

3           (2) incorporate, to the maximum extent prac-  
4           ticable, successful State and local public education  
5           programs.

6           (c) REPORT.—Not later than July 1, 2009, the Sec-  
7           retary shall submit to Congress a report describing the  
8           effectiveness of the program under this section.

9           (d) TERMINATION OF AUTHORITY.—The program  
10          carried out under this section shall terminate on December  
11          31, 2010.

12          (e) AUTHORIZATION OF APPROPRIATIONS.—There  
13          are authorized to be appropriated to carry out this section  
14          \$90,000,000 for each of fiscal years 2006 through 2010.

15       **SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDI-**  
16       **TIONAL PRODUCTS.**

17          (a) DEFINITIONS.—Section 321 of the Energy Policy  
18          and Conservation Act (42 U.S.C. 6291) is amended—

19               (1) in paragraph (29)—

20                       (A) in subparagraph (D)—

21                               (i) in clause (i), by striking “C78.1–  
22                               1978(R1984)” and inserting “C78.81–  
23                               2003 (Data Sheet 7881–ANSI–1010–1)”;

24                               (ii) in clause (ii), by striking “C78.1–  
25                               1978(R1984)” and inserting “C78.81–



1                   2003 (Data Sheet 7881–ANSI–3007–1)”;

2                   and

3                   (iii) in clause (iii), by striking

4                   “C78.1–1978(R1984)” and inserting

5                   “C78.81–2003 (Data Sheet 7881–ANSI–

6                   1019–1)”; and

7                   (B) by adding at the end the following:

8                   “(M) The term ‘F34T12 lamp’ (also known as

9                   a ‘F40T12/ES lamp’) means a nominal 34 watt tu-

10                  bular fluorescent lamp that is 48 inches in length

11                  and 1½ inches in diameter, and conforms to ANSI

12                  standard C78.81–2003 (Data Sheet 7881–ANSI–

13                  1006–1).

14                  “(N) The term ‘F96T12/ES lamp’ means a

15                  nominal 60 watt tubular fluorescent lamp that is 96

16                  inches in length and 1½ inches in diameter, and

17                  conforms to ANSI standard C78.81–2003 (Data

18                  Sheet 7881–ANSI–3006–1).

19                  “(O) The term ‘F96T12HO/ES lamp’ means a

20                  nominal 95 watt tubular fluorescent lamp that is 96

21                  inches in length and 1½ inches in diameter, and

22                  conforms to ANSI standard C78.81–2003 (Data

23                  Sheet 7881–ANSI–1017–1).

24                  “(P) The term ‘replacement ballast’ means a

25                  ballast that—

1 “(i) is designed for use to replace an exist-  
 2 ing ballast in a previously installed luminaire;

3 “(ii) is marked ‘FOR REPLACEMENT  
 4 USE ONLY’;

5 “(iii) is shipped by the manufacturer in  
 6 packages containing not more than 10 ballasts;  
 7 and

8 “(iv) has output leads that when fully ex-  
 9 tended are a total length that is less than the  
 10 length of the lamp with which the ballast is in-  
 11 tended to be operated.”;

12 (2) in paragraph (30)(S)—

13 (A) by inserting “(i)” before “The term”;  
 14 and

15 (B) by adding at the end the following:

16 “(ii) The term “medium base compact flu-  
 17 orescent lamp” does not include—

18 “(I) any lamp that is—

19 “(aa) specifically designed to be  
 20 used for special purpose applications;  
 21 and

22 “(bb) unlikely to be used in gen-  
 23 eral purpose applications, such as the  
 24 applications described in subpara-  
 25 graph (D); or

1 “(II) any lamp not described in sub-  
 2 paragraph (D) that is excluded by the Sec-  
 3 retary, by rule, because the lamp is—

4 “(aa) designed for special appli-  
 5 cations; and

6 “(bb) unlikely to be used in gen-  
 7 eral purpose applications.”; and

8 (3) by adding at the end the following:

9 “(32) The term ‘battery charger’ means a de-  
 10 vice that charges batteries for consumer products,  
 11 including battery chargers embedded in other con-  
 12 sumer products.

13 “(33)(A) The term ‘commercial prerinse spray  
 14 valve’ means a handheld device designed and mar-  
 15 keted for use with commercial dishwashing and ware  
 16 washing equipment that sprays water on dishes, flat-  
 17 ware, and other food service items for the purpose  
 18 of removing food residue before cleaning the items.

19 “(B) The Secretary may modify the definition  
 20 of ‘commercial prerinse spray valve’ by rule—

21 “(i) to include products—

22 “(I) that are extensively used in con-  
 23 junction with commercial dishwashing and  
 24 ware washing equipment;

1 “(II) the application of standards to  
2 which would result in significant energy  
3 savings; and

4 “(III) the application of standards to  
5 which would meet the criteria specified in  
6 section 325(o)(4); and

7 “(ii) to exclude products—

8 “(I) that are used for special food  
9 service applications;

10 “(II) that are unlikely to be widely  
11 used in conjunction with commercial dish-  
12 washing and ware washing equipment; and

13 “(III) the application of standards to  
14 which would not result in significant en-  
15 ergy savings.

16 “(34) The term ‘dehumidifier’ means a self-con-  
17 tained, electrically operated, and mechanically en-  
18 cased assembly consisting of—

19 “(A) a refrigerated surface (evaporator)  
20 that condenses moisture from the atmosphere;

21 “(B) a refrigerating system, including an  
22 electric motor;

23 “(C) an air-circulating fan; and

24 “(D) means for collecting or disposing of  
25 the condensate.

1           “(35)(A) The term ‘distribution transformer’  
2 means a transformer that—

3           “(i) has an input voltage of 34.5 kilovolts  
4 or less;

5           “(ii) has an output voltage of 600 volts or  
6 less; and

7           “(iii) is rated for operation at a frequency  
8 of 60 Hertz.

9           “(B) The term ‘distribution transformer’ does  
10 not include—

11           “(i) a transformer with multiple voltage  
12 taps, the highest of which equals at least 20  
13 percent more than the lowest;

14           “(ii) a transformer that is designed to be  
15 used in a special purpose application and is un-  
16 likely to be used in general purpose applica-  
17 tions, such as a drive transformer, rectifier  
18 transformer, auto-transformer, Uninterruptible  
19 Power System transformer, impedance trans-  
20 former, regulating transformer, sealed and non-  
21 ventilating transformer, machine tool trans-  
22 former, welding transformer, grounding trans-  
23 former, or testing transformer; or

1           “(iii) any transformer not listed in clause  
2           (ii) that is excluded by the Secretary by rule be-  
3           cause—

4           “(I) the transformer is designed for a  
5           special application;

6           “(II) the transformer is unlikely to be  
7           used in general purpose applications; and

8           “(III) the application of standards to  
9           the transformer would not result in signifi-  
10          cant energy savings.

11          “(36) The term ‘external power supply’ means  
12          an external power supply circuit that is used to con-  
13          vert household electric current into DC current or  
14          lower-voltage AC current to operate a consumer  
15          product.

16          “(37) The term ‘illuminated exit sign’ means a  
17          sign that—

18               “(A) is designed to be permanently fixed in  
19               place to identify an exit; and

20               “(B) consists of an electrically powered in-  
21               tegral light source that—

22                       “(i) illuminates the legend ‘EXIT’  
23                       and any directional indicators; and

1 “(ii) provides contrast between the  
2 legend, any directional indicators, and the  
3 background.

4 “(38) The term ‘low-voltage dry-type distribu-  
5 tion transformer’ means a distribution transformer  
6 that—

7 “(A) has an input voltage of 600 volts or  
8 less;

9 “(B) is air-cooled; and

10 “(C) does not use oil as a coolant.

11 “(39) The term ‘pedestrian module’ means a  
12 light signal used to convey movement information to  
13 pedestrians.

14 “(40) The term ‘refrigerated bottled or canned  
15 beverage vending machine’ means a commercial re-  
16 frigerator that cools bottled or canned beverages and  
17 dispenses the bottled or canned beverages on pay-  
18 ment.

19 “(41) The term ‘standby mode’ means the low-  
20 est power consumption mode, as established on an  
21 individual product basis by the Secretary, that—

22 “(A) cannot be switched off or influenced  
23 by the user; and

24 “(B) may persist for an indefinite time  
25 when an appliance is—

1 “(i) connected to the main electricity  
2 supply; and

3 “(ii) used in accordance with the in-  
4 structions of the manufacturer.

5 “(42) The term ‘torchiere’ means a portable  
6 electric lamp with a reflector bowl that directs light  
7 upward to give indirect illumination.

8 “(43) The term ‘traffic signal module’ means a  
9 standard 8-inch (200mm) or 12-inch (300mm) traf-  
10 fic signal indication that—

11 “(A) consists of a light source, a lens, and  
12 all other parts necessary for operation; and

13 “(B) communicates movement messages to  
14 drivers through red, amber, and green colors.

15 “(44) The term ‘transformer’ means a device  
16 consisting of 2 or more coils of insulated wire that  
17 transfers alternating current by electromagnetic in-  
18 duction from 1 coil to another to change the original  
19 voltage or current value.

20 “(45)(A) The term ‘unit heater’ means a self-  
21 contained fan-type heater designed to be installed  
22 within the heated space.

23 “(B) The term ‘unit heater’ does not include a  
24 warm air furnace.



1           “(46)(A) The term ‘high intensity discharge  
2           lamp’ means an electric-discharge lamp in which—

3                   “(i) the light-producing arc is stabilized by  
4                   bulb wall temperature; and

5                   “(ii) the arc tube has a bulb wall loading  
6                   in excess of 3 Watts/cm<sup>2</sup>.

7           “(B) The term ‘high intensity discharge lamp’  
8           includes mercury vapor, metal halide, and high-pres-  
9           sure sodium lamps described in subparagraph (A).

10           “(47)(A) The term ‘mercury vapor lamp’ means  
11           a high intensity discharge lamp in which the major  
12           portion of the light is produced by radiation from  
13           mercury operating at a partial pressure in excess of  
14           100,000 Pa (approximately 1 atm).

15           “(B) The term ‘mercury vapor lamp’ includes  
16           clear, phosphor-coated, and self-ballasted lamps de-  
17           scribed in subparagraph (A).

18           “(48) The term ‘mercury vapor lamp ballast’  
19           means a device that is designed and marketed to  
20           start and operate mercury vapor lamps by providing  
21           the necessary voltage and current.”.

22           (b) TEST PROCEDURES.—Section 323 of the Energy  
23           Policy and Conservation Act (42 U.S.C. 6293) is amend-  
24           ed—

1           (1) in subsection (b), by adding at the end the  
2       following:

3       “(9) Test procedures for illuminated exit signs shall  
4       be based on the test method used under version 2.0 of  
5       the Energy Star program of the Environmental Protection  
6       Agency for illuminated exit signs.

7       “(10)(A) Test procedures for distribution trans-  
8       formers and low voltage dry-type distribution transformers  
9       shall be based on the ‘Standard Test Method for Meas-  
10      uring the Energy Consumption of Distribution Trans-  
11      formers’ prescribed by the National Electrical Manufac-  
12      turers Association (NEMA TP 2–1998).

13      “(B) The Secretary may review and revise the test  
14      procedures established under subparagraph (A).

15      “(C) For purposes of section 346(a), the test proce-  
16      dures established under subparagraph (A) shall be consid-  
17      ered to be the testing requirements prescribed by the Sec-  
18      retary under section 346(a)(1) for distribution trans-  
19      formers for which the Secretary makes a determination  
20      that energy conservation standards would—

21           “(i) be technologically feasible and economically  
22      justified; and

23           “(ii) result in significant energy savings.

24      “(11) Test procedures for traffic signal modules and  
25      pedestrian modules shall be based on the test method used

1 under the Energy Star program of the Environmental  
2 Protection Agency for traffic signal modules, as in effect  
3 on the date of enactment of this paragraph.

4 “(12)(A) Test procedures for medium base compact  
5 fluorescent lamps shall be based on the test methods for  
6 compact fluorescent lamps used under the August 9, 2001,  
7 version of the Energy Star program of the Environmental  
8 Protection Agency and the Department of Energy.

9 “(B) Except as provided in subparagraph (C), me-  
10 dium base compact fluorescent lamps shall meet all test  
11 requirements for regulated parameters of section 325(cc).

12 “(C) Notwithstanding subparagraph (B), if manufac-  
13 turers document engineering predictions and analysis that  
14 support expected attainment of lumen maintenance at 40  
15 percent rated life and lamp lifetime, medium base compact  
16 fluorescent lamps may be marketed before completion of  
17 the testing of lamp life and lumen maintenance at 40 per-  
18 cent of rated life.

19 “(13) Test procedures for dehumidifiers shall be  
20 based on the test criteria used under the Energy Star Pro-  
21 gram Requirements for Dehumidifiers developed by the  
22 Environmental Protection Agency, as in effect on the date  
23 of enactment of this paragraph unless revised by the Sec-  
24 retary pursuant to this section.

1       “(14) The test procedure for measuring flow rate for  
2 commercial prerinse spray valves shall be based on Amer-  
3 ican Society for Testing and Materials Standard F2324,  
4 entitled ‘Standard Test Method for Pre-Rinse Spray  
5 Valves.’

6       “(15) The test procedure for refrigerated bottled or  
7 canned beverage vending machines shall be based on  
8 American National Standards Institute/American Society  
9 of Heating, Refrigerating and Air-Conditioning Engineers  
10 Standard 32.1–2004, entitled ‘Methods of Testing for  
11 Rating Vending Machines for Bottled, Canned or Other  
12 Sealed Beverages’.”; and

13               (2) by adding at the end the following:

14       “(f) ADDITIONAL CONSUMER AND COMMERCIAL  
15 PRODUCTS.—(1) Not later than 2 years after the date of  
16 enactment of this subsection, the Secretary shall prescribe  
17 testing requirements for—

18               “(A) suspended ceiling fans; and

19               “(B) refrigerated bottled or canned beverage  
20 vending machines.

21       “(2) To the maximum extent practicable, the testing  
22 requirements prescribed under paragraph (1) shall be  
23 based on existing test procedures used in industry.”.

1       (c) STANDARD SETTING AUTHORITY.—Section 325  
 2 of the Energy Policy and Conservation Act (42 U.S.C.  
 3 6295) is amended—

4           (1) in subsection (f)(3), by adding at the end  
 5 the following:

6       “(D) Notwithstanding any other provision of this Act,  
 7 if the requirements of subsection (o) are met, the Sec-  
 8 retary may consider and prescribe energy conservation  
 9 standards or energy use standards for electricity used for  
 10 purposes of circulating air through duct work.”;

11           (2) in subsection (g)—

12           (A) in paragraph (6)(B), by inserting “and  
 13 labeled” after “designed”; and

14           (B) by adding at the end the following:

15       “(8)(A) Each fluorescent lamp ballast (other than re-  
 16 placement ballasts or ballasts described in subparagraph  
 17 (C))—

18           “(i)(I) manufactured on or after July 1, 2009;

19           “(II) sold by the manufacturer on or after Oc-  
 20 tober 1, 2009; or

21           “(III) incorporated into a luminaire by a lumi-  
 22 naire manufacturer on or after July 1, 2010; and

23           “(ii) designed—

24           “(I) to operate at nominal input voltages  
 25 of 120 or 277 volts;

1 “(II) to operate with an input current fre-  
2 quency of 60 Hertz; and  
3 “(III) for use in connection with F34T12  
4 lamps, F96T12/ES lamps, or F96T12HO/ES  
5 lamps;  
6 shall have a power factor of 0.90 or greater and shall have  
7 a ballast efficacy factor of not less than the following:

<b>Application for operation of</b>	<b>Ballast input voltage</b>	<b>Total nominal lamp watts</b>	<b>Ballast efficacy factor</b>
One F34T12 lamp	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96 T12/ES lamps	120/277	120	0.77
Two F96 T12HO/ES lamps	120/277	190	0.42

8 “(B) The standards described in subparagraph (A)  
9 shall apply to all ballasts covered by subparagraph (A)(ii)  
10 that are manufactured on or after July 1, 2010, or sold  
11 by the manufacturer on or after October 1, 2010.

12 “(C) The standards described in subparagraphs (A)  
13 and (B) do not apply to—

14 “(i) a ballast that is designed for dimming to  
15 50 percent or less of the maximum output of the  
16 ballast;

17 “(ii) a ballast that is designed for use with 2  
18 F96T12HO lamps at ambient temperatures of 20°F  
19 or less and for use in an outdoor sign; or

1           “(iii) a ballast that has a power factor of less  
2           than 0.90 and is designed and labeled for use only  
3           in residential applications.”;

4           (3) in subsection (o), by adding at the end the  
5           following:

6           “(5) The Secretary may set more than 1 energy con-  
7           servation standard for products that serve more than 1  
8           major function by setting 1 energy conservation standard  
9           for each major function.”;

10          (4) in the first sentence of subsection (p), by  
11          striking “Any” and inserting the following: “Except  
12          as provided in subsection (u), any”; and

13          (5) by adding at the end the following:

14          “(u) SPECIAL RULEMAKING PROCEDURES.—(1) Not-  
15          withstanding any other provision of law, the Secretary  
16          may publish a notice of direct final rulemaking based on  
17          an energy conservation standard recommended by an in-  
18          terested person, if—

19               “(A) in response to an advance notice of pro-  
20               posed rulemaking under paragraph (p), the inter-  
21               ested person (including a representative of a manu-  
22               facturer of a covered product, a conservation advo-  
23               cate, or consumer) submits a joint comment recom-  
24               mending an energy conservation standard; and

1           “(B) the Secretary determines that the energy  
2           conservation standard complies with the substantive  
3           provisions of this Act that apply to the type (or  
4           class) of covered products to which the rule may  
5           apply.

6           “(2) The Secretary shall publish a notice of direct  
7           final rulemaking under paragraph (1) with a notice of pro-  
8           posed rulemaking incorporating by reference the regu-  
9           latory language of the direct final rule that provides for  
10          an effective date not earlier than 90 days after the date  
11          of publication.

12          “(3) The Secretary may withdraw a direct final rule  
13          published under paragraph (2) before the effective date  
14          of the rule if an interested person files a significant ad-  
15          verse comment in response to the related notice of pro-  
16          posed rulemaking.

17          “(v) BATTERY CHARGER AND EXTERNAL POWER  
18          SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not  
19          later than 18 months after the date of enactment of this  
20          subsection, the Secretary shall, after providing notice and  
21          an opportunity for comment, prescribe, by rule, definitions  
22          and test procedures for the power use of battery chargers  
23          and external power supplies.

24          “(B) In establishing the test procedures under sub-  
25          paragraph (A), the Secretary shall—



1           “(i) consider existing definitions and test proce-  
2           dures used for measuring energy consumption in  
3           standby mode and other modes; and

4           “(ii) assess the current and projected future  
5           market for battery chargers and external power sup-  
6           plies.

7           “(C) The assessment under subparagraph (B)(ii)  
8           shall include—

9           “(i) estimates of the significance of potential  
10          energy savings from technical improvements to bat-  
11          tery chargers and external power supplies; and

12          “(ii) suggested product classes for energy con-  
13          servation standards.

14          “(D) Not later than 18 months after the date of en-  
15          actment of this subsection, the Secretary shall hold a  
16          scoping workshop to discuss and receive comments on  
17          plans for developing energy conservation standards for en-  
18          ergy use for battery chargers and external power supplies.

19          “(E)(i) Not later than 3 years after the date of enact-  
20          ment of this subsection, the Secretary shall issue a final  
21          rule that determines whether energy conservation stand-  
22          ards shall be issued for battery chargers and external  
23          power supplies or classes of battery chargers and external  
24          power supplies.

1       “(ii) For each product class, any energy conservation  
2 standards issued under clause (i) shall be set at the lowest  
3 level of energy use that—

4               “(I) meets the criteria and procedures of sub-  
5 sections (o), (p), (q), (r), (s), and (t); and

6               “(II) would result in significant overall annual  
7 energy savings, considering standby mode and other  
8 operating modes.

9       “(2) In determining under section 323 whether test  
10 procedures and energy conservation standards under this  
11 section should be revised with respect to covered products  
12 that are major sources of standby mode energy consump-  
13 tion, the Secretary shall consider whether to incorporate  
14 standby mode into the test procedures and energy con-  
15 servation standards, taking into account standby mode  
16 power consumption compared to overall product energy  
17 consumption.

18       “(3) The Secretary shall not propose an energy con-  
19 servation standard under this section, unless the Secretary  
20 has issued applicable test procedures for each product  
21 under section 323.

22       “(4) Any energy conservation standard issued under  
23 this subsection shall be applicable to products manufac-  
24 tured or imported beginning on the date that is 3 years  
25 after the date of issuance.

1       “(5) The Secretary and the Administrator shall col-  
 2       laborate and develop programs (including programs under  
 3       section 324A and other voluntary industry agreements or  
 4       codes of conduct) that are designed to reduce standby  
 5       mode energy use.

6       “(w) SUSPENDED CEILING FANS AND REFRIG-  
 7       ERATED BEVERAGE VENDING MACHINES.—(1) Not later  
 8       than 4 years after the date of enactment of this sub-  
 9       section, the Secretary shall prescribe, by rule, energy con-  
 10      servation standards for—

11               “(A) suspended ceiling fans; and

12               “(B) refrigerated bottled or canned beverage  
 13      vending machines.

14       “(2) In establishing energy conservation standards  
 15      under this subsection, the Secretary shall use the criteria  
 16      and procedures prescribed under subsections (o) and (p).

17       “(3) Any energy conservation standard prescribed  
 18      under this subsection shall apply to products manufac-  
 19      tured 3 years after the date of publication of a final rule  
 20      establishing the energy conservation standard.

21       “(x) ILLUMINATED EXIT SIGNS.—An illuminated  
 22      exit sign manufactured on or after January 1, 2006, shall  
 23      meet the version 2.0 Energy Star Program performance  
 24      requirements for illuminated exit signs prescribed by the  
 25      Environmental Protection Agency.

1 “(y) TORCHIERES.—A torchiere manufactured on or  
2 after January 1, 2006—

3 “(1) shall consume not more than 190 watts of  
4 power; and

5 “(2) shall not be capable of operating with  
6 lamps that total more than 190 watts.

7 “(z) LOW VOLTAGE DRY-TYPE DISTRIBUTION  
8 TRANSFORMERS.—The efficiency of a low voltage dry-type  
9 distribution transformer manufactured on or after Janu-  
10 ary 1, 2006, shall be the Class I Efficiency Levels for dis-  
11 tribution transformers specified in table 4–2 of the ‘Guide  
12 for Determining Energy Efficiency for Distribution Trans-  
13 formers’ published by the National Electrical Manufactur-  
14 ers Association (NEMA TP–1–2002).

15 “(aa) TRAFFIC SIGNAL MODULES AND PEDESTRIAN  
16 MODULES.—Any traffic signal module or pedestrian mod-  
17 ule manufactured on or after January 1, 2006, shall—

18 “(1) meet the performance requirements used  
19 under the Energy Star program of the Environ-  
20 mental Protection Agency for traffic signals, as in  
21 effect on the date of enactment of this subsection;  
22 and

23 “(2) be installed with compatible, electrically  
24 connected signal control interface devices and con-  
25 flict monitoring systems.

1       “(bb) UNIT HEATERS.—A unit heater manufactured  
 2 on or after the date that is 3 years after the date of enact-  
 3 ment of this subsection shall—

4               “(1) be equipped with an intermittent ignition  
 5 device; and

6               “(2) have power venting or an automatic flue  
 7 damper.

8       “(cc) MEDIUM BASE COMPACT FLUORESCENT  
 9 LAMPS.—(1) A bare lamp and covered lamp (no reflector)  
 10 medium base compact fluorescent lamp manufactured on  
 11 or after January 1, 2006, shall meet the following require-  
 12 ments prescribed by the August 9, 2001, version of the  
 13 Energy Star Program Requirements for Compact Fluores-  
 14 cent Lamps, Energy Star Eligibility Criteria, Energy-Effi-  
 15 ciency Specification issued by the Environmental Protec-  
 16 tion Agency and Department of Energy:

17               “(A) Minimum initial efficacy.

18               “(B) Lumen maintenance at 1000 hours.

19               “(C) Lumen maintenance at 40 percent of  
 20 rated life.

21               “(D) Rapid cycle stress test.

22               “(E) Lamp life.

23       “(2) The Secretary may, by rule, establish require-  
 24 ments for color quality (CRI), power factor, operating fre-  
 25 quency, and maximum allowable start time based on the

1 requirements prescribed by the August 9, 2001, version  
 2 of the Energy Star Program Requirements for Compact  
 3 Fluorescent Lamps.

4 “(3) The Secretary may, by rule—

5 “(A) revise the requirements established under  
 6 paragraph (2); or

7 “(B) establish other requirements, after consid-  
 8 ering energy savings, cost effectiveness, and con-  
 9 sumer satisfaction.

10 “(dd) DEHUMIDIFIERS.—(1) Dehumidifiers manu-  
 11 factured on or after October 1, 2007, shall have an Energy  
 12 Factor that meets or exceeds the following values:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh)</b>
25.00 or less .....	1.00
25.01 – 35.00 .....	1.20
35.01 – 54.00 .....	1.30
54.01 – 74.99 .....	1.50
75.00 or more .....	2.25.

13 “(2)(A) Not later than October 1, 2009, the Sec-  
 14 retary shall publish a final rule in accordance with sub-  
 15 sections (o) and (p), to determine whether the energy con-  
 16 servation standards established under paragraph (1)  
 17 should be amended.

18 “(B) The final rule published under subparagraph  
 19 (A) shall—

20 “(i) contain any amendment by the Secretary;

21 and

1 “(ii) provide that the amendment applies to  
2 products manufactured on or after October 1, 2012.

3 “(C) If the Secretary does not publish an amendment  
4 that takes effect by October 1, 2012, dehumidifiers manu-  
5 factured on or after October 1, 2012, shall have an Energy  
6 Factor that meets or exceeds the following values:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh)</b>
25.00 or less .....	1.20
25.01 – 35.00 .....	1.30
35.01 – 45.00 .....	1.40
45.01 – 54.00 .....	1.50
54.01 – 74.99 .....	1.60
75.00 or more .....	2.5.

7 “(ee) COMMERCIAL PRERINSE SPRAY VALVES.—  
8 Commercial prerinse spray valves manufactured on or  
9 after January 1, 2006, shall have a flow rate of not more  
10 than 1.6 gallons per minute.

11 “(ff) MERCURY VAPOR LAMP BALLASTS.—Mercury  
12 vapor lamp ballasts shall not be manufactured or imported  
13 after January 1, 2008.

14 “(gg) APPLICATION DATE.—Section 327 applies—  
15 “(1) to products for which energy conservation  
16 standards are to be established under subsection (l),  
17 (u), (v), or (w) beginning on the date on which a  
18 final rule is issued by the Secretary, except that any  
19 State or local standard prescribed or enacted for the  
20 product before the date on which the final rule is  
21 issued shall not be preempted until the energy con-

1        servation standard established under subsection  
 2        (l),(u), (v), or (w) for the product takes effect; and  
 3        “(2) to products for which energy conservation  
 4        standards are established under subsections (x)  
 5        through (ff) on the date of enactment of those sub-  
 6        sections, except that any State or local standard pre-  
 7        scribed or enacted before the date of enactment of  
 8        those subsections shall not be preempted until the  
 9        energy conservation standards established under  
 10        subsections (x) through (ff) take effect.”.

11        (d) GENERAL RULE OF PREEMPTION.—Section  
 12        327(c) of the Energy Policy and Conservation Act (42  
 13        U.S.C. 6297(c)) is amended—

14                (1) in paragraph (5), by striking “or” at the  
 15        end;

16                (2) in paragraph (6), by striking the period at  
 17        the end and inserting “; or”; and

18                (3) by adding at the end the following:

19                “(7)(A) is a regulation concerning standards for  
 20        commercial prerinse spray valves adopted by the  
 21        California Energy Commission before January 1,  
 22        2005; or

23                “(B) is an amendment to a regulation described  
 24        in subparagraph (A) that was developed to align



1 California regulations with changes in American So-  
 2 ciety for Testing and Materials Standard F2324;

3 “(8)(A) is a regulation concerning standards for  
 4 pedestrian modules adopted by the California En-  
 5 ergy Commission before January 1, 2005; or

6 “(B) is an amendment to a regulation described  
 7 in subparagraph (A) that was developed to align  
 8 California regulations to changes in the Institute for  
 9 Transportation Engineers standards, entitled ‘Per-  
 10 formance Specification: Pedestrian Traffic Control  
 11 Signal Indications’.”.

12 **SEC. 136. ENERGY CONSERVATION STANDARDS FOR COM-**  
 13 **MERCIAL EQUIPMENT.**

14 (a) DEFINITIONS.—Section 340 of the Energy Policy  
 15 and Conservation Act (42 U.S.C. 6311) is amended—

16 (1) in paragraph (1)—

17 (A) by redesignating subparagraphs (D)  
 18 through (G) as subparagraphs (H) through  
 19 (K), respectively; and

20 (B) by inserting after subparagraph (C)  
 21 the following:

22 “(D) Very large commercial package air  
 23 conditioning and heating equipment.

24 “(E) Commercial refrigerators, freezers,  
 25 and refrigerator-freezers.

1                   “(F) Automatic commercial ice makers.

2                   “(G) Commercial clothes washers.”;

3                   (2) in paragraph (2)(B), by striking “small and  
4                   large commercial package air conditioning and heat-  
5                   ing equipment” and inserting “commercial package  
6                   air conditioning and heating equipment, commercial  
7                   refrigerators, freezers, and refrigerator-freezers,  
8                   automatic commercial ice makers, commercial  
9                   clothes washers”;

10                  (3) by striking paragraphs (8) and (9) and in-  
11                  serting the following:

12                  “(8)(A) The term ‘commercial package air con-  
13                  ditioning and heating equipment’ means air-cooled,  
14                  water-cooled, evaporatively-cooled, or water source  
15                  (not including ground water source) electrically oper-  
16                  ated, unitary central air conditioners and central air  
17                  conditioning heat pumps for commercial application.

18                  “(B) The term ‘small commercial package air  
19                  conditioning and heating equipment’ means commer-  
20                  cial package air conditioning and heating equipment  
21                  that is rated below 135,000 Btu per hour (cooling  
22                  capacity).

23                  “(C) The term ‘large commercial package air  
24                  conditioning and heating equipment’ means commer-

1        cial package air conditioning and heating equipment  
2        that is rated—

3                “(i) at or above 135,000 Btu per hour;  
4                and

5                “(ii) below 240,000 Btu per hour (cooling  
6                capacity).

7                “(D) The term ‘very large commercial package  
8        air conditioning and heating equipment’ means com-  
9        mercial package air conditioning and heating equip-  
10       ment that is rated—

11               “(i) at or above 240,000 Btu per hour;  
12               and

13               “(ii) below 760,000 Btu per hour (cooling  
14               capacity).

15               “(9)(A) The term ‘commercial refrigerator,  
16       freezer, and refrigerator-freezer’ means refrigeration  
17       equipment that—

18               “(i) is not a consumer product (as defined  
19               in section 321);

20               “(ii) is not designed and marketed exclu-  
21               sively for medical, scientific, or research pur-  
22               poses;

23               “(iii) operates at a chilled, frozen, com-  
24               bination chilled and frozen, or variable tempera-  
25               ture;

1           “(iv) displays or stores merchandise and  
2           other perishable materials horizontally,  
3           semivertically, or vertically;

4           “(v) has transparent or solid doors, sliding  
5           or hinged doors, a combination of hinged, slid-  
6           ing, transparent, or solid doors, or no doors;

7           “(vi) is designed for pull-down temperature  
8           applications or holding temperature applica-  
9           tions; and

10          “(vii) is connected to a self-contained con-  
11          densing unit or to a remote condensing unit.

12          “(B) The term ‘holding temperature applica-  
13          tion’ means a use of commercial refrigeration equip-  
14          ment other than a pull-down temperature applica-  
15          tion, except a blast chiller or freezer.

16          “(C) The term ‘integrated average temperature’  
17          means the average temperature of all test package  
18          measurements taken during the test.

19          “(D) The term ‘pull-down temperature applica-  
20          tion’ means a commercial refrigerator with doors  
21          that, when fully loaded with 12 ounce beverage cans  
22          at 90 degrees F, can cool those beverages to an av-  
23          erage stable temperature of 38 degrees F in 12  
24          hours or less.

1           “(E) The term ‘remote condensing unit’ means  
2           a factory-made assembly of refrigerating components  
3           designed to compress and liquefy a specific refrigerant  
4           that is remotely located from the refrigerated  
5           equipment and consists of 1 or more refrigerant  
6           compressors, refrigerant condensers, condenser fans  
7           and motors, and factory supplied accessories.

8           “(F) The term ‘self-contained condensing unit’  
9           means a factory-made assembly of refrigerating components  
10          designed to compress and liquefy a specific  
11          refrigerant that is an integral part of the refrigerated  
12          equipment and consists of 1 or more refrigerant  
13          compressors, refrigerant condensers, condenser  
14          fans and motors, and factory supplied accessories.”;  
15          and

16               (4) by adding at the end the following:

17           “(19) The term ‘automatic commercial ice  
18           maker’ means a factory-made assembly (not necessarily  
19           shipped in 1 package) that—

20               “(A) consists of a condensing unit and ice-  
21               making section operating as an integrated unit,  
22               with means for making and harvesting ice; and

23               “(B) may include means for storing ice,  
24               dispensing ice, or storing and dispensing ice.

1           “(20) The term ‘commercial clothes washer’  
 2           means a soft-mount front-loading or soft-mount top-  
 3           loading clothes washer that—

4                   “(A) has a clothes container compartment  
 5           that—

6                           “(i) for horizontal-axis clothes wash-  
 7                           ers, is not more than 3.5 cubic feet ; and

8                           “(ii) for vertical-axis clothes washers,  
 9                           is not more than 4.0 cubic feet; and

10                   “(B) is designed for use in—

11                           “(i) applications in which the occu-  
 12                           pants of more than 1 household will be  
 13                           using the clothes washer, such as multi-  
 14                           family housing common areas and coin  
 15                           laundries; or

16                           “(ii) other commercial applications.

17           “(21) The term ‘harvest rate’ means the  
 18           amount of ice (at 32 degrees F) in pounds produced  
 19           per 24 hours.”.

20           (b) STANDARDS FOR COMMERCIAL PACKAGE AIR  
 21           CONDITIONING AND HEATING EQUIPMENT.—Section  
 22           342(a) of the Energy Policy and Conservation Act (42  
 23           U.S.C. 6313(a)) is amended—

1           (1) in the subsection heading, by striking  
 2       “SMALL AND LARGE” and inserting “SMALL,  
 3       LARGE, AND VERY LARGE”;

4           (2) in paragraph (1), by inserting “but before  
 5       January 1, 2010,” after “January 1, 1994,”;

6           (3) in paragraph (2), by inserting “but before  
 7       January 1, 2010,” after “January 1, 1995,”; and

8           (4) in paragraph (6)—

9               (A) in subparagraph (A)—

10                   (i) by inserting “(i)” after “(A)”;

11                   (ii) by striking “the date of enactment  
 12                   of the Energy Policy Act of 1992” and in-  
 13                   serting “January 1, 2010”;

14                   (iii) by inserting after “large commer-  
 15                   cial package air conditioning and heating  
 16                   equipment,” the following: “and very large  
 17                   commercial package air conditioning and  
 18                   heating equipment, or if ASHRAE/IES  
 19                   Standard 90.1, as in effect on October 24,  
 20                   1992, is amended with respect to any”;  
 21                   and

22                   (iv) by adding at the end the fol-  
 23                   lowing:

24       “(ii) If ASHRAE/IES Standard 90.1 is not amended  
 25       with respect to small commercial package air conditioning

1 and heating equipment, large commercial package air con-  
 2 ditioning and heating equipment, and very large commer-  
 3 cial package air conditioning and heating equipment dur-  
 4 ing the 5-year period beginning on the effective date of  
 5 a standard, the Secretary may initiate a rulemaking to  
 6 determine whether a more stringent standard—

7 “(I) would result in significant additional con-  
 8 servation of energy; and

9 “(II) is technologically feasible and economi-  
 10 cally justified.”; and

11 (B) in subparagraph (C)(ii), by inserting  
 12 “and very large commercial package air condi-  
 13 tioning and heating equipment” after “large  
 14 commercial package air conditioning and heat-  
 15 ing equipment”; and

16 (5) by adding at the end the following:

17 “(7) Small commercial package air conditioning and  
 18 heating equipment manufactured on or after January 1,  
 19 2010, shall meet the following standards:

20 “(A) The minimum energy efficiency ratio of  
 21 air-cooled central air conditioners at or above 65,000  
 22 Btu per hour (cooling capacity) and less than  
 23 135,000 Btu per hour (cooling capacity) shall be—

24 “(i) 11.2 for equipment with no heating or  
 25 electric resistance heating; and



1           “(ii) 11.0 for equipment with all other  
2           heating system types that are integrated into  
3           the equipment (at a standard rating of 95 de-  
4           grees F db).

5           “(B) The minimum energy efficiency ratio of  
6           air-cooled central air conditioner heat pumps at or  
7           above 65,000 Btu per hour (cooling capacity) and  
8           less than 135,000 Btu per hour (cooling capacity)  
9           shall be—

10           “(i) 11.0 for equipment with no heating or  
11           electric resistance heating; and

12           “(ii) 10.8 for equipment with all other  
13           heating system types that are integrated into  
14           the equipment (at a standard rating of 95 de-  
15           grees F db).

16           “(C) The minimum coefficient of performance  
17           in the heating mode of air-cooled central air condi-  
18           tioning heat pumps at or above 65,000 Btu per hour  
19           (cooling capacity) and less than 135,000 Btu per  
20           hour (cooling capacity) shall be 3.3 (at a high tem-  
21           perature rating of 47 degrees F db).

22           “(8) Large commercial package air conditioning and  
23           heating equipment manufactured on or after January 1,  
24           2010, shall meet the following standards:

1           “(A) The minimum energy efficiency ratio of  
2           air-cooled central air conditioners at or above  
3           135,000 Btu per hour (cooling capacity) and less  
4           than 240,000 Btu per hour (cooling capacity) shall  
5           be—

6                       “(i) 11.0 for equipment with no heating or  
7                       electric resistance heating; and

8                       “(ii) 10.8 for equipment with all other  
9                       heating system types that are integrated into  
10                      the equipment (at a standard rating of 95 de-  
11                      grees F db).

12           “(B) The minimum energy efficiency ratio of  
13           air-cooled central air conditioner heat pumps at or  
14           above 135,000 Btu per hour (cooling capacity) and  
15           less than 240,000 Btu per hour (cooling capacity)  
16           shall be—

17                       “(i) 10.6 for equipment with no heating or  
18                       electric resistance heating; and

19                       “(ii) 10.4 for equipment with all other  
20                       heating system types that are integrated into  
21                       the equipment (at a standard rating of 95 de-  
22                       grees F db).

23           “(C) The minimum coefficient of performance  
24           in the heating mode of air-cooled central air condi-  
25           tioning heat pumps at or above 135,000 Btu per

1 hour (cooling capacity) and less than 240,000 Btu  
2 per hour (cooling capacity) shall be 3.2 (at a high  
3 temperature rating of 47 degrees F db).

4 “(9) Very large commercial package air conditioning  
5 and heating equipment manufactured on or after January  
6 1, 2010, shall meet the following standards:

7 “(A) The minimum energy efficiency ratio of  
8 air-cooled central air conditioners at or above  
9 240,000 Btu per hour (cooling capacity) and less  
10 than 760,000 Btu per hour (cooling capacity) shall  
11 be—

12 “(i) 10.0 for equipment with no heating or  
13 electric resistance heating; and

14 “(ii) 9.8 for equipment with all other heat-  
15 ing system types that are integrated into the  
16 equipment (at a standard rating of 95 degrees  
17 F db).

18 “(B) The minimum energy efficiency ratio of  
19 air-cooled central air conditioner heat pumps at or  
20 above 240,000 Btu per hour (cooling capacity) and  
21 less than 760,000 Btu per hour (cooling capacity)  
22 shall be—

23 “(i) 9.5 for equipment with no heating or  
24 electric resistance heating; and

1                   “(ii) 9.3 for equipment with all other heat-  
 2                   ing system types that are integrated into the  
 3                   equipment (at a standard rating of 95 degrees  
 4                   F db).

5                   “(C) The minimum coefficient of performance  
 6                   in the heating mode of air-cooled central air condi-  
 7                   tioning heat pumps at or above 240,000 Btu per  
 8                   hour (cooling capacity) and less than 760,000 Btu  
 9                   per hour (cooling capacity) shall be 3.2 (at a high  
 10                  temperature rating of 47 degrees F db).”.

11                  (c) STANDARDS FOR COMMERCIAL REFRIGERATORS,  
 12                  FREEZERS, AND REFRIGERATOR-FREEZERS.—Section  
 13                  342 of the Energy Policy and Conservation Act (42 U.S.C.  
 14                  6313) is amended by adding at the end the following:

15                  “(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND  
 16                  REFRIGERATOR-FREEZERS.—(1) In this subsection:

17                   “(A) The term ‘AV’ means the adjusted volume  
 18                   (ft<sup>3</sup>) (defined as 1.63 x frozen temperature compart-  
 19                   ment volume (ft<sup>3</sup>) + chilled temperature compart-  
 20                   ment volume (ft<sup>3</sup>)) with compartment volumes meas-  
 21                   ured in accordance with the Association of Home  
 22                   Appliance Manufacturers Standard HRF1–1979.

23                   “(B) The term ‘V’ means the chilled or frozen  
 24                   compartment volume (ft<sup>3</sup>) (as defined in the Asso-

1 ciation of Home Appliance Manufacturers Standard  
2 HRF1–1979).

3 “(C) Other terms have such meanings as may  
4 be established by the Secretary, based on industry-  
5 accepted definitions and practice.

6 “(2) Each commercial refrigerator, freezer, and re-  
7 frigerator-freezer with a self-contained condensing unit de-  
8 signed for holding temperature applications manufactured  
9 on or after January 1, 2010, shall have a daily energy  
10 consumption (in kilowatt hours per day) that does not ex-  
11 ceed the following:

“Refrigerators with solid doors .....	0.10 V + 2.04
Refrigerators with transparent doors .....	0.12 V + 3.34
Freezers with solid doors .....	0.40 V + 1.38
Freezers with transparent doors .....	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV – 0.71 or 0.70.

12 “(3) Each commercial refrigerator with a self-con-  
13 tained condensing unit designed for pull-down tempera-  
14 ture applications and transparent doors manufactured on  
15 or after January 1, 2010, shall have a daily energy con-  
16 sumption (in kilowatt hours per day) of not more than  
17  $0.126 V + 3.51$ .

18 “(4)(A) Not later than January 1, 2009, the Sec-  
19 retary shall issue, by rule, standard levels for ice-cream  
20 freezers, self-contained commercial refrigerators, freezers,  
21 and refrigerator-freezers without doors, and remote con-  
22 densing commercial refrigerators, freezers, and refrig-

1 erator-freezers, with the standard levels effective for  
2 equipment manufactured on or after January 1, 2012.

3 “(B) The Secretary may issue, by rule, standard lev-  
4 els for other types of commercial refrigerators, freezers,  
5 and refrigerator-freezers not covered by paragraph (2)(A)  
6 with the standard levels effective for equipment manufac-  
7 tured 3 or more years after the date on which the final  
8 rule is published.

9 “(5)(A) Not later than January 1, 2013, the Sec-  
10 retary shall issue a final rule to determine whether the  
11 standards established under this subsection should be  
12 amended.

13 “(B) Not later than 3 years after the effective date  
14 of any amended standards under subparagraph (A) or the  
15 publication of a final rule determining that the standards  
16 should not be amended, the Secretary shall issue a final  
17 rule to determine whether the standards established under  
18 this subsection or the amended standards, as applicable,  
19 should be amended.

20 “(C) If the Secretary issues a final rule under sub-  
21 paragraph (A) or (B) establishing amended standards, the  
22 final rule shall provide that the amended standards apply  
23 to products manufactured on or after the date that is—

24 “(i) 3 years after the date on which the final  
25 amended standard is published; or

1           “(ii) if the Secretary determines, by rule, that  
2           3 years is inadequate, not later than 5 years after  
3           the date on which the final rule is published.”.

4           (d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE  
5 MAKERS.—Section 342 of the Energy Policy and Con-  
6 servation Act (42 U.S.C. 6313) (as amended by subsection  
7 (c)) is amended by adding at the end the following:

8           “(d) AUTOMATIC COMMERCIAL ICE MAKERS.—(1)  
9 Each automatic commercial ice maker that produces cube  
10 type ice with capacities between 50 and 2500 pounds per  
11 24-hour period when tested according to the test standard  
12 established in section 343(a)(7) and is manufactured on  
13 or after January 1, 2010, shall meet the following stand-  
14 ard levels:

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		≥500 and <1436	5.58–0.0011H	200–0.022H
		≥1436	4.0	200–0.022H
Ice Making Head	Air	<450	10.26–0.0086H	Not Applicable
		≥450	6.89–0.0011H	Not Applicable
Remote Condensing (but not remote compressor)	Air	<1000	8.85–0.0038H	Not Applicable
		≥1000	5.10	Not Applicable
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable
		≥934	5.3	Not Applicable

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Self Contained	Water	<200	11.40–0.019H	191–0.0315H
		≥200	7.60	191–0.0315H
Self Contained	Air	<175	18.0–0.0469H	Not Applicable
		≥175	9.80	Not Applicable

H = Harvest rate in pounds per 24 hours.

Water use is for the condenser only and does not include potable water used to make ice.

1 “(2)(A) The Secretary may issue, by rule, standard  
2 levels for types of automatic commercial ice makers that  
3 are not covered by paragraph (1).

4 “(B) The standards established under subparagraph  
5 (A) shall apply to products manufactured on or after the  
6 date that is—

7 “(i) 3 years after the date on which the rule is  
8 published under subparagraph (A); or

9 “(ii) if the Secretary determines, by rule, that  
10 3 years is inadequate, not later than 5 years after  
11 the date on which the final rule is published.

12 “(3)(A) Not later than January 1, 2015, with respect  
13 to the standards established under paragraph (1), and,  
14 with respect to the standards established under paragraph  
15 (2), not later than 5 years after the date on which the  
16 standards take effect, the Secretary shall issue a final rule  
17 to determine whether amending the applicable standards  
18 is technologically feasible and economically justified.



1       “(B) Not later than 5 years after the effective date  
 2 of any amended standards under subparagraph (A) or the  
 3 publication of a final rule determining that amending the  
 4 standards is not technologically feasible or economically  
 5 justified, the Secretary shall issue a final rule to determine  
 6 whether amending the standards established under para-  
 7 graph (1) or the amended standards, as applicable, is tech-  
 8 nologically feasible or economically justified.

9       “(C) If the Secretary issues a final rule under sub-  
 10 paragraph (A) or (B) establishing amended standards, the  
 11 final rule shall provide that the amended standards apply  
 12 to products manufactured on or after the date that is—

13               “(i) 3 years after the date on which the final  
 14 amended standard is published; or

15               “(ii) if the Secretary determines, by rule, that  
 16 3 years is inadequate, not later than 5 years after  
 17 the date on which the final amended standard is  
 18 published.

19       “(4) A final rule issued under paragraph (2) or (3)  
 20 shall establish standards at the maximum level that is  
 21 technically feasible and economically justified, as provided  
 22 in subsections (o) and (p) of section 325.”.

23       (e) STANDARDS FOR COMMERCIAL CLOTHES WASH-  
 24 ERS.—Section 342 of the Energy Policy and Conservation

1 Act (42 U.S.C. 6313) (as amended by subsection (d)) is  
2 amended by adding at the end the following:

3 “(e) COMMERCIAL CLOTHES WASHERS.—(1) Each  
4 commercial clothes washer manufactured on or after Jan-  
5 uary 1, 2007, shall have—

6 “(A) a Modified Energy Factor of at least 1.26;  
7 and

8 “(B) a Water Factor of not more than 9.5.

9 “(2)(A)(i) Not later than January 1, 2010, the Sec-  
10 retary shall publish a final rule to determine whether the  
11 standards established under paragraph (1) should be  
12 amended.

13 “(ii) The rule published under clause (i) shall provide  
14 that any amended standard shall apply to products manu-  
15 factured 3 years after the date on which the final amended  
16 standard is published.

17 “(B)(i) Not later than January 1, 2015, the Sec-  
18 retary shall publish a final rule to determine whether the  
19 standards established under paragraph (1) should be  
20 amended.

21 “(ii) The rule published under clause (i) shall provide  
22 that any amended standard shall apply to products manu-  
23 factured 3 years after the date on which the final amended  
24 standard is published.”.

1 (f) TEST PROCEDURES.—Section 343 of the Energy  
2 Policy and Conservation Act (42 U.S.C. 6314) is amend-  
3 ed—

4 (1) in subsection (a)—

5 (A) in paragraph (4)—

6 (i) in subparagraph (A), by inserting  
7 “very large commercial package air condi-  
8 tioning and heating equipment,” after  
9 “large commercial package air conditioning  
10 and heating equipment,”; and

11 (ii) in subparagraph (B), by inserting  
12 “very large commercial package air condi-  
13 tioning and heating equipment,” after  
14 “large commercial package air conditioning  
15 and heating equipment,”; and

16 (B) by adding at the end the following:

17 “(6)(A)(i) In the case of commercial refrigerators,  
18 freezers, and refrigerator-freezers, the test procedures  
19 shall be—

20 “(I) the test procedures determined by the Sec-  
21 retary to be generally accepted industry testing pro-  
22 cedures; or

23 “(II) rating procedures developed or recognized  
24 by the ASHRAE or by the American National  
25 Standards Institute.

1       “(ii) In the case of self-contained refrigerators, freez-  
2   ers, and refrigerator-freezers to which standards are appli-  
3   cable under paragraphs (2) and (3) of section 342(c), the  
4   initial test procedures shall be the ASHRAE 117 test pro-  
5   cedure that is in effect on January 1, 2005.

6       “(B)(i) In the case of commercial refrigerators, freez-  
7   ers, and refrigerators-freezers with doors covered by the  
8   standards adopted in February 2002, by the California  
9   Energy Commission, the rating temperatures shall be the  
10   integrated average temperature of 38 degrees F ( $\pm 2$  de-  
11   grees F) for refrigerator compartments and 0 degrees F  
12   ( $\pm 2$  degrees F) for freezer compartments.

13       “(C) The Secretary shall issue a rule in accordance  
14   with paragraphs (2) and (3) to establish the appropriate  
15   rating temperatures for the other products for which  
16   standards will be established under subsection 342(c)(4).

17       “(D) In establishing the appropriate test tempera-  
18   tures under this subparagraph, the Secretary shall follow  
19   the procedures and meet the requirements under section  
20   323(e).

21       “(E)(i) Not later than 180 days after the publication  
22   of the new ASHRAE 117 test procedure, if the ASHRAE  
23   117 test procedure for commercial refrigerators, freezers,  
24   and refrigerator-freezers is amended, the Secretary shall,  
25   by rule, amend the test procedure for the product as nec-

1   essary to ensure that the test procedure is consistent with  
2   the amended ASHRAE 117 test procedure, unless the  
3   Secretary makes a determination, by rule, and supported  
4   by clear and convincing evidence, that to do so would not  
5   meet the requirements for test procedures under para-  
6   graphs (2) and (3).

7       “(ii) If the Secretary determines that 180 days is an  
8   insufficient period during which to review and adopt the  
9   amended test procedure or rating procedure under clause  
10   (i), the Secretary shall publish a notice in the Federal  
11   Register stating the intent of the Secretary to wait not  
12   longer than 1 additional year before putting into effect  
13   an amended test procedure or rating procedure.

14       “(F)(i) If a test procedure other than the ASHRAE  
15   117 test procedure is approved by the American National  
16   Standards Institute, the Secretary shall, by rule—

17           “(I) review the relative strengths and weak-  
18       nesses of the new test procedure relative to the  
19       ASHRAE 117 test procedure; and

20           “(II) based on that review, adopt 1 new test  
21       procedure for use in the standards program.

22       “(ii) If a new test procedure is adopted under clause  
23   (i)—

24           “(I) section 323(e) shall apply; and

1           “(II) subparagraph (B) shall apply to the  
2       adopted test procedure.

3       “(7)(A) In the case of automatic commercial ice mak-  
4       ers, the test procedures shall be the test procedures speci-  
5       fied in Air-Conditioning and Refrigeration Institute  
6       Standard 810–2003, as in effect on January 1, 2005.

7       “(B)(i) If Air-Conditioning and Refrigeration Insti-  
8       tute Standard 810–2003 is amended, the Secretary shall  
9       amend the test procedures established in subparagraph  
10      (A) as necessary to be consistent with the amended Air-  
11      Conditioning and Refrigeration Institute Standard, unless  
12      the Secretary determines, by rule, published in the Federal  
13      Register and supported by clear and convincing evidence,  
14      that to do so would not meet the requirements for test  
15      procedures under paragraphs (2) and (3).

16      “(ii) If the Secretary issues a rule under clause (i)  
17      containing a determination described in clause (ii), the  
18      rule may establish an amended test procedure for the  
19      product that meets the requirements of paragraphs (2)  
20      and (3).

21      “(C) The Secretary shall comply with section 323(e)  
22      in establishing any amended test procedure under this  
23      paragraph.

24      “(8) With respect to commercial clothes washers, the  
25      test procedures shall be the same as the test procedures

1 established by the Secretary for residential clothes wash-  
 2 ers under section 325(g).”; and

3 (2) in subsection (d)(1), by inserting “very  
 4 large commercial package air conditioning and heat-  
 5 ing equipment, commercial refrigerators, freezers,  
 6 and refrigerator-freezers, automatic commercial ice  
 7 makers, commercial clothes washers,” after “large  
 8 commercial package air conditioning and heating  
 9 equipment,”.

10 (g) LABELING.—Section 344(e) of the Energy Policy  
 11 and Conservation Act (42 U.S.C. 6315(e)) is amended by  
 12 inserting “very large commercial package air conditioning  
 13 and heating equipment, commercial refrigerators, freezers,  
 14 and refrigerator-freezers, automatic commercial ice mak-  
 15 ers, commercial clothes washers,” after “large commercial  
 16 package air conditioning and heating equipment,” each  
 17 place it appears.

18 (h) ADMINISTRATION, PENALTIES, ENFORCEMENT,  
 19 AND PREEMPTION.—Section 345 of the Energy Policy and  
 20 Conservation Act (42 U.S.C. 6316) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (7), by striking “and” at  
 23 the end;

24 (B) in paragraph (8), by striking the pe-  
 25 riod at the end and inserting “; and”; and

1 (C) by adding at the end the following:

2 “(9) in the case of commercial clothes washers,  
3 section 327(b)(1) shall be applied as if the National  
4 Appliance Energy Conservation Act of 1987 was the  
5 Energy Policy Act of 2005.”;

6 (2) in the first sentence of subsection (b)(1), by  
7 striking “part B” and inserting “part A”; and

8 (3) by adding at the end the following:

9 “(d)(1) Except as provided in paragraphs (2) and  
10 (3), section 327 shall apply with respect to very large com-  
11 mercial package air conditioning and heating equipment  
12 to the same extent and in the same manner as section  
13 327 applies under part A on the date of enactment of this  
14 subsection.

15 “(2) Any State or local standard issued before the  
16 date of enactment of this subsection shall not be pre-  
17 empted until the standards established under section  
18 342(a)(9) take effect on January 1, 2010.

19 “(e)(1)(A) Subsections (a), (b), and (d) of section  
20 326, subsections (m) through (s) of section 325, and sec-  
21 tions 328 through 336 shall apply with respect to commer-  
22 cial refrigerators, freezers, and refrigerator-freezers to the  
23 same extent and in the same manner as those provisions  
24 apply under part A.



1       “(B) In applying those provisions to commercial re-  
2   frigerators, freezers, and refrigerator-freezers, paragraphs  
3   (1), (2), (3), and (4) of subsection (a) shall apply.

4       “(2)(A) Section 327 shall apply to commercial refrig-  
5   erators, freezers, and refrigerator-freezers for which  
6   standards are established under paragraphs (2) and (3)  
7   of section 342(c) to the same extent and in the same man-  
8   ner as those provisions apply under part A on the date  
9   of enactment of this subsection, except that any State or  
10   local standard issued before the date of enactment of this  
11   subsection shall not be preempted until the standards es-  
12   tablished under paragraphs (2) and (3) of section 342(c)  
13   take effect.

14       “(B) In applying section 327 in accordance with sub-  
15   paragraph (A), paragraphs (1), (2), and (3) of subsection  
16   (a) shall apply.

17       “(3)(A) Section 327 shall apply to commercial refrig-  
18   erators, freezers, and refrigerator-freezers for which  
19   standards are established under section 342(c)(4) to the  
20   same extent and in the same manner as the provisions  
21   apply under part A on the date of publication of the final  
22   rule by the Secretary, except that any State or local stand-  
23   ard issued before the date of publication of the final rule  
24   by the Secretary shall not be preempted until the stand-  
25   ards take effect.

1 “(B) In applying section 327 in accordance with sub-  
2 paragraph (A), paragraphs (1), (2), and (3) of subsection  
3 (a) shall apply.

4 “(4)(A) If the Secretary does not issue a final rule  
5 for a specific type of commercial refrigerator, freezer, or  
6 refrigerator-freezer within the time frame specified in sec-  
7 tion 342(c)(5), subsections (b) and (c) of section 327 shall  
8 not apply to that specific type of refrigerator, freezer, or  
9 refrigerator-freezer for the period beginning on the date  
10 that is 2 years after the scheduled date for a final rule  
11 and ending on the date on which the Secretary publishes  
12 a final rule covering the specific type of refrigerator, freez-  
13 er, or refrigerator-freezer.

14 “(B) Any State or local standard issued before the  
15 date of publication of the final rule shall not be preempted  
16 until the final rule takes effect.

17 “(5)(A) In the case of any commercial refrigerator,  
18 freezer, or refrigerator-freezer to which standards are ap-  
19 plicable under paragraphs (2) and (3) of section 342(c),  
20 the Secretary shall require manufacturers to certify,  
21 through an independent, nationally recognized testing or  
22 certification program, that the commercial refrigerator,  
23 freezer, or refrigerator-freezer meets the applicable stand-  
24 ard.

1       “(B) The Secretary shall, to the maximum extent  
2 practicable, encourage the establishment of at least 2 inde-  
3 pendent testing and certification programs.

4       “(C) As part of certification, information on equip-  
5 ment energy use and interior volume shall be made avail-  
6 able to the Secretary.

7       “(f)(1)(A)(i) Except as provided in clause (ii), section  
8 327 shall apply to automatic commercial ice makers for  
9 which standards have been established under section  
10 342(d)(1) to the same extent and in the same manner as  
11 the section applies under part A on the date of enactment  
12 of this subsection.

13       “(ii) Any State standard issued before the date of en-  
14 actment of this subsection shall not be preempted until  
15 the standards established under section 342(d)(1) take ef-  
16 fect.

17       “(B) In applying section 327 to the equipment under  
18 subparagraph (A), paragraphs (1), (2), and (3) of sub-  
19 section (a) shall apply.

20       “(2)(A)(i) Except as provided in clause (ii), section  
21 327 shall apply to automatic commercial ice makers for  
22 which standards have been established under section  
23 342(d)(2) to the same extent and in the same manner as  
24 the section applies under part A on the date of publication  
25 of the final rule by the Secretary.

1       “(ii) Any State standard issued before the date of  
2 publication of the final rule by the Secretary shall not be  
3 preempted until the standards established under section  
4 342(d)(2) take effect.

5       “(B) In applying section 327 in accordance with sub-  
6 paragraph (A), paragraphs (1), (2), and (3) of subsection  
7 (a) shall apply.

8       “(3)(A) If the Secretary does not issue a final rule  
9 for a specific type of automatic commercial ice maker  
10 within the time frame specified in subsection 342(d), sub-  
11 sections (b) and (c) of section 327 shall no longer apply  
12 to the specific type of automatic commercial ice maker for  
13 the period beginning on the day after the scheduled date  
14 for a final rule and ending on the date on which the Sec-  
15 retary publishes a final rule covering the specific type of  
16 automatic commercial ice maker.

17       “(B) Any State standard issued before the publica-  
18 tion of the final rule shall not be preempted until the  
19 standards established in the final rule take effect.

20       “(4)(A) The Secretary shall monitor whether manu-  
21 facturers are reducing harvest rates below tested values  
22 for the purpose of bringing non-complying equipment into  
23 compliance.

24       “(B) If the Secretary finds that there has been a sub-  
25 stantial amount of manipulation with respect to harvest

1 rates under subparagraph (A), the Secretary shall take  
 2 steps to minimize the manipulation, such as requiring har-  
 3 vest rates to be within 5 percent of tested values.

4 “(g)(1)(A) If the Secretary does not issue a final rule  
 5 for commercial clothes washers within the timeframe spec-  
 6 ified in section 342(e)(2), subsections (b) and (c) of sec-  
 7 tion 327 shall not apply to commercial clothes washers for  
 8 the period beginning on the day after the scheduled date  
 9 for a final rule and ending on the date on which the Sec-  
 10 retary publishes a final rule covering commercial clothes  
 11 washers.

12 “(B) Any State or local standard issued before the  
 13 date on which the Secretary publishes a final rule shall  
 14 not be preempted until the standards established under  
 15 section 342(e)(2) take effect.

16 “(2) The Secretary shall undertake an educational  
 17 program to inform owners of laundromats, multifamily  
 18 housing, and other sites where commercial clothes washers  
 19 are located about the new standard, including impacts on  
 20 washer purchase costs and options for recovering those  
 21 costs through coin collection.”.

22 **SEC. 137. EXPEDITED RULEMAKING.**

23 (a) ADMINISTRATIVE PROCEDURE.—The first sen-  
 24 tence of section 325(p) of the Energy Policy and Con-  
 25 servation Act (42 U.S.C. 6295(p)) is amended by striking

1 “Any” and inserting “Except as provided in subsection  
2 (u), any”.

3 (b) ADMINISTRATIVE PROCEDURE AND JUDICIAL  
4 REVIEW.—The first sentence of section 336(b)(2) of the  
5 Energy Policy and Conservation Act (42 U.S.C.  
6 6306(b)(2)) is amended by striking “such chapter.” and  
7 inserting “that chapter, except, notwithstanding section  
8 706(2)(D) of title 5, United States Code, no direct final  
9 rule prescribed or withdrawn under section 325(u) may  
10 be held unlawful or set aside because of the failure of the  
11 Secretary to observe a procedure required by law other  
12 than the procedures required under section 325(u).”.

13 (c) CONFORMING AMENDMENT.—Section 345(b)(1)  
14 of the Energy Policy and Conservation Act (42 U.S.C.  
15 6316(b)(1)) is amended by inserting “section 325(u),” be-  
16 fore “section 326(a)”.

17 **SEC. 138. ENERGY LABELING.**

18 (a) RULEMAKING ON EFFECTIVENESS OF CONSUMER  
19 PRODUCT LABELING.—Section 324(a)(2) of the Energy  
20 Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is  
21 amended by adding at the end the following:

22 “(F)(i) Not later than 90 days after the date of en-  
23 actment of this subparagraph, the Commission shall ini-  
24 tiate a rulemaking to consider—

1           “(I) the effectiveness of the consumer products  
 2           labeling program in assisting consumers in making  
 3           purchasing decisions and improving energy effi-  
 4           ciency; and

5           “(II) changes to the labeling rules (including  
 6           categorical labeling) that would improve the effec-  
 7           tiveness of consumer product labels.

8           “(ii) Not later than 2 years after the date of enact-  
 9           ment of this subparagraph, the Commission shall complete  
 10          the rulemaking initiated under clause (i).”.

11          (b) RULEMAKING ON LABELING FOR ADDITIONAL  
 12          PRODUCTS.—Section 324(a) of the Energy Policy and  
 13          Conservation Act (42 U.S.C. 6294(a)) is amended by add-  
 14          ing at the end the following:

15          “(5)(A) For covered products described in sub-  
 16          sections (u) through (ee) of section 325, after a test proce-  
 17          dure has been prescribed under section 323, the Secretary  
 18          or the Commission, as appropriate, may prescribe, by rule,  
 19          under this section labeling requirements for the products.

20          “(B) In the case of products to which TP–1 stand-  
 21          ards under section 325(y) apply, labeling requirements  
 22          shall be based on the ‘Standard for the Labeling of Dis-  
 23          tribution Transformer Efficiency’ prescribed by the Na-  
 24          tional Electrical Manufacturers Association (NEMA TP–  
 25          3) as in effect on the date of enactment of this paragraph.

1 “(C) In the case of dehumidifiers covered under sec-  
 2 tion 325(dd), the Commission shall not require an ‘Energy  
 3 Guide’ label.”.

4 **SEC. 139. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS**  
 5 **UTILITIES STUDY.**

6 (a) IN GENERAL.—Not later than 1 year after the  
 7 date of enactment of this Act, the Secretary, in consulta-  
 8 tion with the National Association of Regulatory Utility  
 9 Commissioners and the National Association of State En-  
 10 ergy Officials, shall conduct a study of State and regional  
 11 policies that promote cost-effective programs to reduce en-  
 12 ergy consumption (including energy efficiency programs)  
 13 that are carried out by—

14 (1) utilities that are subject to State regulation;

15 and

16 (2) nonregulated utilities.

17 (b) CONSIDERATION.—In conducting the study under  
 18 subsection (a), the Secretary shall take into consider-  
 19 ation—

20 (1) performance standards for achieving energy  
 21 use and demand reduction targets;

22 (2) funding sources, including rate surcharges;

23 (3) infrastructure planning approaches (includ-  
 24 ing energy efficiency programs) and infrastructure  
 25 improvements;



1           (4) the costs and benefits of consumer edu-  
 2           cation programs conducted by State and local gov-  
 3           ernments and local utilities to increase consumer  
 4           awareness of energy efficiency technologies and  
 5           measures; and

6           (5) methods of—

7                   (A) removing disincentives for utilities to  
 8           implement energy efficiency programs;

9                   (B) encouraging utilities to undertake vol-  
 10          untary energy efficiency programs; and

11                  (C) ensuring appropriate returns on energy  
 12          efficiency programs.

13          (c) REPORT.—Not later than 1 year after the date  
 14          of enactment of this Act, the Secretary shall submit to  
 15          Congress a report that includes—

16                  (1) the findings of the study; and

17                  (2) any recommendations of the Secretary, in-  
 18          cluding recommendations on model policies to pro-  
 19          mote energy efficiency programs.

20      **SEC. 140. ENERGY EFFICIENCY PILOT PROGRAM.**

21          (a) IN GENERAL.—The Secretary shall establish a  
 22          pilot program under which the Secretary provides financial  
 23          assistance to at least 3, but not more than 7, States to  
 24          carry out pilot projects in the States for—

1 (1) planning and adopting statewide programs  
 2 that encourage, for each year in which the pilot  
 3 project is carried out—

4 (A) energy efficiency; and

5 (B) reduction of consumption of electricity  
 6 or natural gas in the State by at least 0.75 per-  
 7 cent, as compared to a baseline determined by  
 8 the Secretary for the period preceding the im-  
 9 plementation of the program; or

10 (2) for any State that has adopted a statewide  
 11 program as of the date of enactment of this Act, ac-  
 12 tivities that reduce energy consumption in the State  
 13 by expanding and improving the program.

14 (b) VERIFICATION.—A State that receives financial  
 15 assistance under subsection (a)(1) shall submit to the Sec-  
 16 retary independent verification of any energy savings  
 17 achieved through the statewide program.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
 19 authorized to be appropriated to carry out this section  
 20 \$5,000,000 for each of fiscal years 2006 through 2010,  
 21 to remain available until expended.

22 **SEC. 141. ENERGY EFFICIENCY RESOURCE PROGRAMS.**

23 (a) ELECTRIC UTILITY PROGRAMS.—Section 111 of  
 24 the Public Utilities Regulatory Policy Act of 1978 (16

1 U.S.C. 2621) is amended by adding at the end the fol-  
2 lowing:

3 “(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

4 “(1) DEFINITIONS.—In this subsection:

5 “(A) DEMAND BASELINE.—The term ‘de-  
6 mand baseline’ means the baseline determined  
7 by the Secretary for an appropriate period pre-  
8 ceding the implementation of an energy effi-  
9 ciency resource program.

10 “(B) ENERGY EFFICIENCY RESOURCE PRO-  
11 GRAMS.—The term ‘energy efficiency resource  
12 program’ means an energy efficiency or other  
13 demand reduction program that is designed to  
14 reduce annual electricity consumption or peak  
15 demand of consumers served by an electric util-  
16 ity by a percentage of the demand baseline of  
17 the utility that is equal to not less than 0.75  
18 percent of the number of years during which  
19 the program is in effect.

20 “(2) PUBLIC HEARINGS; DETERMINATIONS.—

21 “(A) As soon as practicable after the date  
22 of enactment of this subsection, but not later  
23 than 3 years after that date, each State regu-  
24 latory authority (with respect to each electric  
25 utility over which the State has ratemaking au-

thority) and each nonregulated electric utility shall, after notice, conduct a public hearing on the benefits and feasibility of implementing an energy efficiency resource program.

“(B) A State regulatory authority or nonregulated utility shall implement an energy efficiency resource program if, on the basis of a hearing under subparagraph (A), the State regulatory authority or nonregulated utility determines that the program would—

“(i) benefit end-use customers;

“(ii) be cost-effective based on total resource cost;

“(iii) serve the public welfare; and

“(iv) be feasible to implement.

“(3) IMPLEMENTATION.—

“(A) STATE REGULATORY AUTHORITIES.—

If a State regulatory authority makes a determination under paragraph (2)(B), the State regulatory authority shall—

“(i) require each electric utility over which the State has ratemaking authority to implement an energy efficiency resource program; and

1 “(ii) allow such a utility to recover  
 2 any expenditures incurred by the utility in  
 3 implementing the energy efficiency re-  
 4 source program.

5 “(B) NONREGULATED ELECTRIC UTILI-  
 6 TIES.—If a nonregulated electric utility makes  
 7 a determination under paragraph (2)(B), the  
 8 utility shall implement an energy efficiency re-  
 9 source program.

10 “(4) UPDATING REGULATIONS.—A State regu-  
 11 latory authority or nonregulated utility may update  
 12 periodically a determination under paragraph (2)(B)  
 13 to determine whether an energy efficiency resource  
 14 program should be—

15 “(A) continued;,

16 “(B) modified; or

17 “(C) terminated.

18 “(5) EXCEPTION.—Paragraph (2) shall not  
 19 apply to a State regulatory authority (or any non-  
 20 regulated electric utility operating in the State) that  
 21 demonstrates to the Secretary that an energy effi-  
 22 ciency resource program is in effect in the State.”.

23 (b) GAS UTILITIES.—Section 303 of the Public Utili-  
 24 ties Regulatory Policy Act of 1978 (15 U.S.C. 3203) is  
 25 amended by adding at the end the following:

1 “(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

2 “(1) DEFINITIONS.—In this subsection:

3 “(A) DEMAND BASELINE.—The term ‘de-  
4 mand baseline’ means the baseline determined  
5 by the Secretary for an appropriate period pre-  
6 ceding the implementation of an energy effi-  
7 ciency resource program.

8 “(B) ENERGY EFFICIENCY RESOURCE PRO-  
9 GRAMS.—The term ‘energy efficiency resource  
10 program’ means an energy efficiency or other  
11 demand reduction program that is designed to  
12 reduce annual gas consumption or peak demand  
13 of consumers served by a gas utility by a per-  
14 centage of the demand baseline of the utility  
15 that is equal to not less than 0.75 percent of  
16 the number of years during which the program  
17 is in effect.

18 “(2) PUBLIC HEARINGS; DETERMINATIONS.—

19 “(A) As soon as practicable after the date  
20 of enactment of this subsection, but not later  
21 than 3 years after that date, each State regu-  
22 latory authority (with respect to each gas utility  
23 over which the State has ratemaking authority)  
24 and each nonregulated gas utility shall, after  
25 notice, conduct a public hearing on the benefits

1 and feasibility of implementing an energy effi-  
 2 ciency resource program.

3 “(B) A State regulatory authority or non-  
 4 regulated utility shall implement an energy effi-  
 5 ciency resource program if, on the basis of a  
 6 hearing under subparagraph (A), the State reg-  
 7 ulatory authority or nonregulated utility deter-  
 8 mines that the program would—

9 “(i) benefit end-use customers;

10 “(ii) be cost-effective based on total  
 11 resource cost;

12 “(iii) serve the public welfare; and

13 “(iv) be feasible to implement.

14 “(3) IMPLEMENTATION.—

15 “(A) STATE REGULATORY AUTHORITIES.—

16 If a State regulatory authority makes a deter-  
 17 mination under paragraph (2)(B), the State  
 18 regulatory authority shall—

19 “(i) require each gas utility over  
 20 which the State has ratemaking authority  
 21 to implement an energy efficiency resource  
 22 program; and

23 “(ii) allow such a utility to recover  
 24 any expenditures incurred by the utility in

1 implementing the energy efficiency re-  
 2 source program.

3 “(B) NONREGULATED GAS UTILITIES.—If  
 4 a nonregulated gas utility makes a determina-  
 5 tion under paragraph (2)(B), the utility shall  
 6 implement an energy efficiency resource pro-  
 7 gram.

8 “(4) UPDATING REGULATIONS.—A State regu-  
 9 latory authority or nonregulated utility may update  
 10 periodically a determination under paragraph (2)(B)  
 11 to determine whether an energy efficiency resource  
 12 program should be—

13 “(A) continued;,

14 “(B) modified; or

15 “(C) terminated.

16 “(5) EXCEPTION.—Paragraph (2) shall not  
 17 apply to a State regulatory authority (or any non-  
 18 regulated gas utility operating in the State) that  
 19 demonstrates to the Secretary that an energy effi-  
 20 ciency resource program is in effect in the State.”.

## 21 **Subtitle D—Measures to Conserve** 22 **Petroleum**

### 23 **SEC. 151. REDUCTION OF DEPENDENCE ON IMPORTED PE-** 24 **TROLEUM.**

25 (a) REPORT.—



1           (1) IN GENERAL.—Not later than February 1,  
2           2006, and annually thereafter, the President shall  
3           submit to Congress a report, based on the most re-  
4           cent edition of the Annual Energy Outlook published  
5           by the Energy Information Administration, assessing  
6           the progress made by the United States toward the  
7           goal of reducing dependence on imported petroleum  
8           sources by 2015.

9           (2) CONTENTS.—The report under subsection  
10          (a) shall—

11                 (A) include a description of the implemen-  
12                 tation, during the previous fiscal year, of provi-  
13                 sions under this Act relating to domestic crude  
14                 petroleum production;

15                 (B) assess the effectiveness of those provi-  
16                 sions in meeting the goal described in para-  
17                 graph (1); and

18                 (C) describe the progress in developing and  
19                 implementing measures under subsection (b).

20          (b) MEASURES TO REDUCE IMPORT DEPENDENCE  
21 THROUGH INCREASED DOMESTIC PETROLEUM CON-  
22 SERVATION.—

23           (1) IN GENERAL.—Not later than 1 year after  
24           the date of enactment of this Act, the President  
25           shall develop and implement measures to conserve

1 petroleum in end-uses throughout the economy of  
 2 the United States sufficient to reduce total demand  
 3 for petroleum in the United States by 1,000,000  
 4 barrels per day from the amount projected for cal-  
 5 endar year 2015 in the reference case contained in  
 6 the report of the Energy Information Administration  
 7 entitled “Annual Energy Outlook 2005”.

8 (2) CONTENTS.—The measures under para-  
 9 graph (1) shall be designed to ensure continued reli-  
 10 able and affordable energy for consumers.

11 (3) IMPLEMENTATION.—The measures under  
 12 paragraph (1) shall be implemented under existing  
 13 authorities of appropriate Federal executive agencies  
 14 identified by the President.

## 15 **Subtitle E—Energy Efficiency in** 16 **Housing**

### 17 **SEC. 161. PUBLIC HOUSING CAPITAL FUND.**

18 Section 9 of the United States Housing Act of 1937  
 19 (42 U.S.C. 1437g) is amended—

20 (1) in subsection (d)(1)—

21 (A) in subparagraph (I), by striking “;  
 22 and” and inserting a semicolon;

23 (B) in subparagraph (J), by striking the  
 24 period at the end and inserting a semicolon;  
 25 and

1 (C) by adding at the end the following:

2 “(K) improvement of energy and water-use  
3 efficiency by installing fixtures and fittings that  
4 conform to the American Society of Mechanical  
5 Engineers/American National Standards Insti-  
6 tute standards A112.19.2–1998 and  
7 A112.18.1–2000, or any revision thereto, appli-  
8 cable at the time of installation, and by increas-  
9 ing energy efficiency and water conservation by  
10 such other means as the Secretary determines  
11 are appropriate; and

12 “(L) integrated utility management and  
13 capital planning to maximize energy conserva-  
14 tion and efficiency measures.”; and

15 (2) in subsection (e)(2)(C)—

16 (A) by striking “The treatment” and in-  
17 serting the following:

18 “(i) IN GENERAL.—The treatment”;

19 and

20 (B) by adding at the end the following:

21 “(ii) THIRD PARTY CONTRACTS.—

22 Contracts described in clause (i) may in-  
23 clude contracts for—

24 “(I) equipment conversions to  
25 less costly utility sources;

1 “(II) projects with resident-paid  
2 utilities; and

3 “(III) adjustments to frozen base  
4 year consumption, including systems  
5 repaired to meet applicable building  
6 and safety codes and adjustments for  
7 occupancy rates increased by rehabili-  
8 tation.

9 “(iii) TERM OF CONTRACT.—The total  
10 term of a contract described in clause (i)  
11 shall not exceed 20 years to allow longer  
12 payback periods for retrofits, including—

13 “(I) windows;

14 “(II) heating system replace-  
15 ments;

16 “(III) wall insulation;

17 “(IV) site-based generation; and

18 “(V) advanced energy savings  
19 technologies, including renewable en-  
20 ergy generation and other such retro-  
21 fits.”.

22 **SEC. 162. ENERGY EFFICIENT APPLIANCES.**

23 In purchasing appliances, a public housing agency  
24 shall purchase energy-efficient appliances that are Energy  
25 Star products or FEMP designated products, as such

1 terms are defined in section 552 of the National Energy  
 2 Conservation Policy Act (42 U.S.C. 8251 et seq.) (as  
 3 amended by section 104) unless the purchase of energy-  
 4 efficient appliances is not cost-effective to the agency.

5 **SEC. 163. ENERGY EFFICIENCY STANDARDS.**

6 Section 109 of the Cranston-Gonzalez National Af-  
 7 fordable Housing Act (42 U.S.C. 12709) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1)—

10 (i) by striking “ 1 year after the date  
 11 of enactment of the Energy Policy Act of  
 12 1992” and inserting “September 30,  
 13 2006”;

14 (ii) in subparagraph (A), by striking  
 15 “; and” and inserting a semicolon;

16 (iii) in subparagraph (B), by striking  
 17 the period at the end and inserting “;  
 18 and”; and

19 (iv) by adding at the end the fol-  
 20 lowing:

21 “(C) rehabilitation and new construction of  
 22 public and assisted housing funded by HOPE  
 23 VI revitalization grants, established under sec-  
 24 tion 24 of the United States Housing Act of  
 25 1937 (42 U.S.C. 1437v), where such standards

1 are determined to be cost effective by the Sec-  
2 retary of Housing and Urban Development.”;  
3 and

4 (B) in paragraph (2), in the first sentence,  
5 by inserting “, and, with respect to rehabilita-  
6 tion and new construction of public and assisted  
7 housing funded by HOPE VI revitalization  
8 grants, established under section 24 of the  
9 United States Housing Act of 1937 (42 U.S.C.  
10 1437v), the 2003 International Energy Con-  
11 servation Code” after “Standard 90.1–1989”);  
12 (2) in subsection (b)—

13 (A) by striking “within 1 year after the  
14 date of enactment of the Energy Policy Act of  
15 1992” and inserting “by September 30, 2006”;  
16 and

17 (B) by inserting “, and, with respect to re-  
18 habilitation and new construction of public and  
19 assisted housing funded by HOPE VI revital-  
20 ization grants, established under section 24 of  
21 the United States Housing Act of 1937 (42  
22 U.S.C. 1437v), the 2003 International Energy  
23 Conservation Code” after “Standard 90.1–  
24 1989”; and

25 (3) in subsection (c)—

1 (A) in the heading, by inserting “AND THE  
 2 INTERNATIONAL ENERGY CONSERVATION  
 3 CODE” after “MODEL ENERGY CODE”; and

4 (B) by inserting “, or, with respect to re-  
 5 habilitation and new construction of public and  
 6 assisted housing funded by HOPE VI revital-  
 7 ization grants, established under section 24 of  
 8 the United States Housing Act of 1937 (42  
 9 U.S.C. 1437v), the 2003 International Energy  
 10 Conservation Code” after “Standard 90.1–  
 11 1989”.

12 **SEC. 164. ENERGY STRATEGY FOR THE DEPARTMENT OF**  
 13 **HOUSING AND URBAN DEVELOPMENT.**

14 (a) DEVELOPMENT OF STRATEGY.—The Secretary of  
 15 Housing and Urban Development shall develop and imple-  
 16 ment an integrated energy strategy to reduce utility ex-  
 17 penses through cost-effective energy conservation and effi-  
 18 ciency measures and energy efficient design and construc-  
 19 tion of public and assisted housing.

20 (b) CONTENTS OF STRATEGY.—The energy strategy  
 21 required under subsection (a) shall include the develop-  
 22 ment of energy reduction goals and incentives for public  
 23 housing agencies.

24 (c) REPORT.—Not later than 1 year after the date  
 25 of enactment of this Act, and every 2 years thereafter,

1 the Secretary of Housing and Urban Development shall  
 2 submit to Congress a report describing—

3 (1) the energy strategy required under sub-  
 4 section (a);

5 (2) the actions taken by the Department of  
 6 Housing and Urban Development to monitor the en-  
 7 ergy usage of public housing agencies; and

8 (3) the progress, if any, in implementing the  
 9 energy strategy required under subsection (a).

## 10 **TITLE II—RENEWABLE ENERGY**

### 11 **Subtitle A—General Provisions**

#### 12 **SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RE-** 13 **SOURCES.**

14 (a) RESOURCE ASSESSMENTS.—Not later than 180  
 15 days after the date of enactment of this Act and each year  
 16 thereafter, the Secretary shall—

17 (1) review the available assessments of renew-  
 18 able energy resources within the United States, in-  
 19 cluding solar, wind, biomass, ocean (tidal, wave, cur-  
 20 rent, and thermal), geothermal, and hydroelectric  
 21 energy resources; and

22 (2) undertake new assessments as necessary,  
 23 taking into account changes in market conditions,  
 24 available technologies, and other relevant factors.

25 (b) REPORTS.—



1           (1) IN GENERAL.—Not later than 1 year after  
2           the date of enactment of this Act and each year  
3           thereafter, the Secretary shall publish a report based  
4           on the most recent assessment under subsection (a).

5           (2) CONTENTS.—The report shall contain—

6                   (A) a detailed inventory describing the  
7                   available quantity and characteristics of the re-  
8                   newable energy resources; and

9                   (B) such other information as the Sec-  
10                  retary determines would be useful in developing  
11                  the renewable energy resources, including—

12                           (i) descriptions of surrounding ter-  
13                           rain, population and load centers, nearby  
14                           energy infrastructure, and the location of  
15                           energy and water resources;

16                           (ii) available estimates of the costs  
17                           needed to develop each resource;

18                           (iii) an identification of any barriers  
19                           to providing adequate transmission for re-  
20                           mote sources of renewable energy resources  
21                           to current and emerging markets;

22                           (iv) recommendations for removing or  
23                           addressing those barriers; and

24                           (v) recommendations for providing ac-  
25                           cess to the electrical grid that do not un-

1                   fairly disadvantage renewable or other en-  
2                   ergy producers.

3           (c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Secretary to carry  
5 out this section \$10,000,000 for each of fiscal years 2006  
6 through 2010.

7 **SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

8           (a) INCENTIVE PAYMENTS.—Section 1212(a) of the  
9 Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is  
10 amended—

11                   (1) by striking the last sentence;

12                   (2) by designating the first, second, and third  
13 sentences as paragraphs (1), (2), and (3), respec-  
14 tively;

15                   (3) in paragraph (3) (as so designated), by  
16 striking “and which satisfies” and all that follows  
17 through “deems necessary”; and

18                   (4) by adding at the end the following:

19           “(4)(A) Subject to subparagraph (B), if there are in-  
20 sufficient appropriations to make full payments for electric  
21 production from all qualified renewable energy facilities  
22 for a fiscal year, the Secretary shall assign—

23                   “(i) 60 percent of appropriated funds for the  
24 fiscal year to facilities that use solar, wind, geo-

1 thermal, or closed-loop (dedicated energy crops) bio-  
2 mass technologies to generate electricity; and

3 “(ii) 40 percent of appropriated funds for the  
4 fiscal year to other projects.

5 “(B) After submitting to Congress an explanation of  
6 the reasons for the alteration, the Secretary may alter the  
7 percentage requirements of subparagraph (A).”.

8 (b) QUALIFIED RENEWABLE ENERGY FACILITY.—  
9 Section 1212(b) of the Energy Policy Act of 1992 (42  
10 U.S.C. 13317(b)) is amended—

11 (1) by striking “a State or any political” and  
12 all that follows through “nonprofit electrical cooper-  
13 ative” and inserting “a not-for-profit electric cooper-  
14 ative, a public utility described in section 115 of the  
15 Internal Revenue Code of 1986, a State, Common-  
16 wealth, territory, or possession of the United States,  
17 or the District of Columbia, or a political subdivision  
18 thereof, or an Indian tribal government or subdivi-  
19 sion thereof,”; and

20 (2) by inserting “landfill gas,” after “wind, bio-  
21 mass,”.

22 (c) ELIGIBILITY WINDOW.—Section 1212(c) of the  
23 Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is  
24 amended by striking “during the 10-fiscal year period be-  
25 ginning with the first full fiscal year occurring after the

1 enactment of this section” and inserting “before October  
2 1, 2016”.

3 (d) PAYMENT PERIOD.—Section 1212(d) of the En-  
4 ergy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended  
5 in the second sentence by inserting “, or in which the Sec-  
6 retary determines that all necessary Federal and State au-  
7 thorizations have been obtained to begin construction of  
8 the facility” after “eligible for such payments”.

9 (e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of  
10 the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1))  
11 is amended in the first sentence by inserting “landfill  
12 gas,” after “wind, biomass,”.

13 (f) TERMINATION OF AUTHORITY.—Section 1212(f)  
14 of the Energy Policy Act of 1992 (42 U.S.C. 13317(f))  
15 is amended by striking “the expiration of” and all that  
16 follows through “of this section” and inserting “Sep-  
17 tember 30, 2026”.

18 (g) AUTHORIZATION OF APPROPRIATIONS.—Section  
19 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317)  
20 is amended by striking subsection (g) and inserting the  
21 following:

22 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated such sums as are nec-  
24 essary to carry out this section for each of fiscal years  
25 2006 through 2026, to remain available until expended.”.

1 **SEC. 203. FEDERAL PURCHASE REQUIREMENT.**

2 (a) DEFINITIONS.—In this section:

3 (1) BIOMASS.—The term “biomass” means any  
4 solid, nonhazardous, cellulosic material that is de-  
5 rived from—

6 (A) any of the following forest-related re-  
7 sources: mill residue, precommercial thinning,  
8 slash, brush, or nonmerchantable material;

9 (B) a solid wood waste material—

10 (i) including a waste pallet, crate,  
11 dunnage, manufacturing and construction  
12 wood waste (other than pressure-treated,  
13 chemically-treated, or painted wood waste),  
14 and landscape or right-of-way tree trim-  
15 ming; but

16 (ii) not including municipal solid  
17 waste (garbage), gas derived from the bio-  
18 degradation of solid waste, or paper that is  
19 commonly recycled;

20 (C) agriculture waste, including an orchard  
21 tree crop, vineyard, grain, legume, sugar, and  
22 other crop byproduct or residue, and a livestock  
23 waste nutrient; or

24 (D) a plant that is grown exclusively as a  
25 fuel for the production of electricity.

1           (2) RENEWABLE ENERGY.—The term “renew-  
2       able energy” means electric energy generated from  
3       solar, wind, biomass, landfill gas, geothermal, munic-  
4       ipal solid waste, or new hydroelectric generation ca-  
5       pacity achieved from increased efficiency or addi-  
6       tions of new capacity at an existing hydroelectric  
7       project.

8       (b) REQUIREMENT.—The President, acting through  
9       the Secretary, shall seek to ensure that, to the extent eco-  
10      nomically feasible and technically practicable, of the total  
11      quantity of electric energy the Federal Government con-  
12      sumes during any fiscal year, the following amounts shall  
13      be renewable energy:

14           (1) Not less than 3 percent in each of fiscal  
15      years 2007 through 2009.

16           (2) Not less than 5 percent in each of fiscal  
17      years 2010 through 2012.

18           (3) Not less than 7.5 percent in fiscal year  
19      2013 and each fiscal year thereafter.

20       (c) CALCULATION.—For purposes of determining  
21      compliance with the requirement of this section, the quan-  
22      tity of renewable energy shall be doubled if—

23           (1) the renewable energy is produced and used  
24      onsite at a Federal facility;

1           (2) the renewable energy is produced on Fed-  
2           eral land and used at a Federal facility; or

3           (3) the renewable energy is produced on Indian  
4           land (as defined in section 2601 of the Energy Pol-  
5           icy Act of 1992) and used at a Federal facility.

6           (d) REPORT.—Not later than April 15, 2007, and  
7           every 2 years thereafter, the Secretary shall provide to  
8           Congress a report on the progress of the Federal Govern-  
9           ment in meeting the goals established by this section.

10 **SEC. 204. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

11           (a) DEFINITIONS.—In this section:

12           (1) CELLULOSIC BIOMASS ETHANOL.—The  
13           term “cellulosic biomass ethanol” means ethanol de-  
14           rived from any lignocellulosic or hemicellulosic mat-  
15           ter that is available on a renewable or recurring  
16           basis, including—

17                   (A) dedicated energy crops and trees;

18                   (B) wood and wood residues;

19                   (C) plants;

20                   (D) grasses;

21                   (E) agricultural residues; and

22                   (F) fibers.

23           (2) RENEWABLE FUEL.—

24                   (A) IN GENERAL.—The term “renewable  
25           fuel” means motor vehicle fuel that—

1 (i)(I) is produced from grain, starch,  
2 oilseeds, sugar cane, sugar beets, sugar  
3 components, tobacco, potatoes, or other  
4 biomass; or

5 (II) is natural gas produced from a  
6 biogas source, including a landfill, sewage  
7 waste treatment plant, feedlot, or other  
8 place where decaying organic material is  
9 found; and

10 (ii) is used to replace or reduce the  
11 quantity of fossil fuel present in a fuel  
12 mixture used to operate a motor vehicle.

13 (B) INCLUSIONS.—The term “renewable  
14 fuel” includes—

15 (i) cellulosic biomass ethanol;

16 (ii) waste derived ethanol;

17 (iii) biodiesel (as defined in section  
18 312(f) of the Energy Policy Act of 1992  
19 (42 U.S.C. 13220(f)); and

20 (iv) any blending components derived  
21 from renewable fuel, except that only the  
22 renewable fuel portion of the blending com-  
23 ponent shall be considered part of the ap-  
24 plicable volume under the renewable fuel  
25 program established by this section.



1           (3) SMALL REFINERY.—The term “small refin-  
2       ery” means a refinery for which average aggregate  
3       daily crude oil throughput for the calendar year (as  
4       determined by dividing the aggregate throughput for  
5       the calendar year by the number of days in the cal-  
6       endar year) does not exceed 75,000 barrels.

7           (4) WASTE DERIVED ETHANOL.—The term  
8       “waste derived ethanol” means ethanol derived  
9       from—

10           (A) animal wastes, including poultry fats  
11       and poultry wastes, and other waste materials;  
12       or

13           (B) municipal solid waste.

14       (b) RENEWABLE FUEL PROGRAM.—

15           (1) IN GENERAL.—

16           (A) REGULATIONS.—Not later than 1 year  
17       after the date of enactment of this Act, the Sec-  
18       retary shall issue regulations ensuring that  
19       motor vehicle fuel sold or dispensed to con-  
20       sumers in the contiguous United States, on an  
21       annual average basis, contains the applicable  
22       volume of renewable fuel specified in paragraph  
23       (2).

24           (B) COMPLIANCE.—Regardless of the date  
25       of issuance, the regulations shall contain com-

pliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel.

(C) NO REGULATIONS.—If the Secretary does not issue the regulations, the applicable percentage referred to in paragraph (3), on a volume percentage of gasoline basis, shall be 3.2 in 2006.

(2) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of paragraph (1), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

<b>Calendar year:</b>	<b>(In billions of gallons)</b>
2006 .....	4.0
2007 .....	4.7
2008 .....	5.4
2009 .....	6.1
2010 .....	6.8
2011 .....	7.4
2012 .....	8.0

(B) CALENDAR YEARS 2013 AND THEREAFTER.—

(i) IN GENERAL.—Subject to clause (ii), for the purpose of paragraph (1), the

1 applicable volume for calendar year 2013  
2 and each calendar year thereafter shall be  
3 determined by the Secretary, in coordina-  
4 tion with the Secretary of Agriculture and  
5 the Administrator of the Environmental  
6 Protection Agency, based on a review of  
7 the implementation of the program during  
8 calendar years 2006 through 2012, includ-  
9 ing a review of—

10 (I) the impact of the use of re-  
11 newable fuels on the environment, air  
12 quality, energy security, job creation,  
13 and rural economic development; and

14 (II) the expected annual rate of  
15 future production of renewable fuels,  
16 including cellulosic ethanol.

17 (ii) MINIMUM QUANTITY DERIVED  
18 FROM CELLULOSIC BIOMASS.—For cal-  
19 endar year 2013 and each calendar year  
20 thereafter—

21 (I) the applicable volume referred  
22 to in clause (i) shall contain a min-  
23 imum of 250,000,000 gallons that are  
24 derived from cellulosic biomass; and

1 (II) the 2.5-to-1 ratio referred to  
2 in subsection (e) shall not apply.

3 (C) LIMITATION.—An increase in the ap-  
4 plicable volume for a calendar year under sub-  
5 paragraph (B) shall be not less than the prod-  
6 uct obtained by multiplying—

7 (i) the number of gallons of gasoline  
8 that the Secretary estimates will be sold or  
9 introduced into commerce during the cal-  
10 endar year; and

11 (ii) the quotient obtained by divid-  
12 ing—

13 (I) 8,000,000,000; by

14 (II) the number of gallons of gas-  
15 oline sold or introduced into com-  
16 merce during calendar year 2012.

17 (c) NONCONTIGUOUS STATE OPT-IN.—

18 (1) IN GENERAL.—On the petition of a non-  
19 contiguous State, the Secretary may allow the re-  
20 newable fuel program established under this subtitle  
21 to apply in the noncontiguous State at the same  
22 time or any time after the Secretary issues regula-  
23 tions under subsection (b).

24 (2) OTHER ACTIONS.—The Secretary may—

1 (A) issue or revise regulations under sub-  
2 section (b);

3 (B) establish applicable percentages under  
4 subsection (d);

5 (C) provide for the generation of credits  
6 under subsection (f); and

7 (D) take such other actions as are nec-  
8 essary to allow for the application of the renew-  
9 able fuels program in a noncontiguous State.

10 (d) APPLICABLE PERCENTAGES.—

11 (1) PROVISION OF ESTIMATE OF VOLUMES OF  
12 GASOLINE SALES.—Not later than October 31 of  
13 each of calendar years 2006 through 2011, the Ad-  
14 ministrator of the Energy Information Administra-  
15 tion shall provide to the Secretary an estimate of the  
16 volumes of gasoline that will be sold or introduced  
17 into commerce in the United States during the fol-  
18 lowing calendar year.

19 (2) DETERMINATION OF APPLICABLE PERCENT-  
20 AGES.—

21 (A) IN GENERAL.—Not later than Novem-  
22 ber 30 of each of calendar years 2006 through  
23 2011, based on the estimate provided under  
24 paragraph (1), the Secretary shall determine  
25 and publish in the Federal Register, with re-

1 spect to the following calendar year, the renew-  
2 able fuel obligation that ensures that the re-  
3 quirements under subsection (b) are met.

4 (B) REQUIRED ELEMENTS.—The renew-  
5 able fuel obligation determined for a calendar  
6 year under subparagraph (A) shall—

7 (i) be applicable to refiners, blenders,  
8 and importers, as appropriate;

9 (ii) be expressed in terms of a volume  
10 percentage of gasoline sold or introduced  
11 into commerce; and

12 (iii) subject to paragraph (3)(A), con-  
13 sist of a single applicable percentage that  
14 applies to all categories of persons speci-  
15 fied in clause (i).

16 (3) ADJUSTMENTS.—In determining the appli-  
17 cable percentage for a calendar year, the Secretary  
18 shall make adjustments—

19 (A) to prevent the imposition of redundant  
20 obligations to any person specified in paragraph  
21 (2)(B)(i); and

22 (B) to account for the use of renewable  
23 fuel during the previous calendar year by small  
24 refineries that are exempt under subsection (i).

1 (e) EQUIVALENCY.—For the purpose of subsection  
2 (b), 1 gallon of either cellulosic biomass ethanol or waste  
3 derived ethanol shall be considered to be the equivalent  
4 of 2.5 gallons of renewable fuel.

5 (f) CREDIT PROGRAM.—

6 (1) REGULATIONS.—The regulations issued to  
7 carry out this section shall provide for—

8 (A) the generation of an appropriate  
9 amount of credits by any person that refines,  
10 blends, or imports gasoline that contains a  
11 quantity of renewable fuel that is greater than  
12 the quantity required under subsection (b);

13 (B) the generation of an appropriate  
14 amount of credits for biodiesel fuel; and

15 (C) if a small refinery notifies the Sec-  
16 retary that the small refinery waives the exemp-  
17 tion provided by this section, the generation of  
18 credits by the small refinery beginning in the  
19 year following the notification.

20 (2) USE OF CREDITS.—A person that generates  
21 credits under paragraph (1) may use the credits, or  
22 transfer all or a portion of the credits to another  
23 person, for the purpose of complying with subsection  
24 (b).

1           (3) LIFE OF CREDITS.—A credit generated  
 2           under this paragraph shall be valid to demonstrate  
 3           compliance for the calendar year in which the credit  
 4           was generated.

5           (4) INABILITY TO PURCHASE SUFFICIENT  
 6           CREDITS.—The regulations issued to carry out this  
 7           section shall include provisions permitting any per-  
 8           son that is unable to generate or purchase sufficient  
 9           credits to meet the requirement under subsection (b)  
 10          to carry forward a renewable fuels deficit if, for the  
 11          calendar year following the year in which the renew-  
 12          able fuels deficit is created—

13                 (A) the person achieves compliance with  
 14                 the renewable fuels requirement under sub-  
 15                 section (b); and

16                 (B) generates or purchases additional re-  
 17                 newable fuels credits to offset the renewable  
 18                 fuels deficit of the preceding year.

19          (g) SEASONAL VARIATIONS IN RENEWABLE FUEL  
 20          USE.—

21           (1) STUDY.—For each of calendar years 2006  
 22           through 2012, the Administrator of the Energy In-  
 23           formation Administration shall conduct a study of  
 24           renewable fuels blending to determine whether there



1 are excessive seasonal variations in the use of renew-  
2 able fuels.

3 (2) REGULATION OF EXCESSIVE SEASONAL  
4 VARIATIONS.—If, for any calendar year, the Admin-  
5 istrator of the Energy Information Administration,  
6 based on the study under subparagraph (A), makes  
7 the determinations specified in paragraph (3), the  
8 Secretary shall issue regulations to ensure that 35  
9 percent or more of the quantity of renewable fuels  
10 necessary to meet the requirements under subsection  
11 (b) is used during each of the periods specified in  
12 paragraph (4) of each subsequent calendar year.

13 (3) DETERMINATIONS.—The determinations re-  
14 ferred to in paragraph (2) are that—

15 (A) less than 35 percent of the quantity of  
16 renewable fuels necessary to meet the require-  
17 ments under subsection (b) has been used dur-  
18 ing 1 of the periods specified in paragraph (4)  
19 of the calendar year;

20 (B) a pattern of excessive seasonal vari-  
21 ation described in subparagraph (A) will con-  
22 tinue in subsequent calendar years; and

23 (C) issuing regulations or other require-  
24 ments to impose a 35 percent or more seasonal  
25 use of renewable fuels will not—

1 (i) prevent or interfere with the at-  
 2 tainment of national ambient air quality  
 3 standards; or

4 (ii) significantly increase the price of  
 5 motor fuels to the consumer.

6 (4) PERIODS.—The 2 periods referred to in this  
 7 paragraph are—

8 (A) April through September; and

9 (B) January through March and October  
 10 through December.

11 (5) STATE EXEMPTION FROM SEASONALITY RE-  
 12 QUIREMENTS.—Notwithstanding any other provision  
 13 of law, a seasonality requirement relating to the use  
 14 of renewable fuel established in accordance with this  
 15 subsection shall not apply to any State that receives  
 16 a waiver under section 209(b) of the Clean Air Act  
 17 (42 U.S.C. 7543(b)).

18 (h) WAIVERS.—

19 (1) IN GENERAL.—The Secretary, in consulta-  
 20 tion with the Secretary of Agriculture and the Ad-  
 21 ministrator of the Environmental Protection Agency,  
 22 may waive the requirements under subsection (b), in  
 23 whole or in part, on a petition by 1 or more States  
 24 by reducing the national quantity of renewable fuel  
 25 required under this section—

(A) based on a determination by the Secretary, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(B) based on a determination by the Secretary, after public notice and opportunity for comment, that there is an inadequate domestic supply to meet the requirement.

(2) PETITIONS FOR WAIVERS.—Not later than 90 days after the date on which a petition is received by the Secretary under paragraph (1), the Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall approve or disapprove the petition.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate on the date that is 1 year after the date on which the waiver was granted, but may be renewed by the Secretary, after consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency.

(i) SMALL REFINERIES.—

1           (1) IN GENERAL.—Subsection (b) shall not  
2       apply to small refineries until the first calendar year  
3       beginning more than 5 years after the first year set  
4       forth in the table in subsection (b)(2)(A).

5           (2) STUDY.—Not later than December 31,  
6       2008, the Secretary shall complete a study to deter-  
7       mine whether the requirements under subsection (b)  
8       would impose a disproportionate economic hardship  
9       on small refineries.

10          (3) SMALL REFINERIES AND ECONOMIC HARD-  
11       SHIP.—For any small refinery that the Secretary de-  
12       termines would experience a disproportionate eco-  
13       nomic hardship, the Secretary shall extend the small  
14       refinery exemption for the small refinery for not less  
15       than 2 additional years.

16          (4) ECONOMIC HARDSHIP.—

17                (A) EXTENSION OF EXEMPTION.—A small  
18       refinery may at any time petition the Secretary  
19       for an extension of the exemption from the re-  
20       quirements under subsection (b) for the reason  
21       of disproportionate economic hardship.

22                (B) EVALUATION.—In evaluating a hard-  
23       ship petition, the Secretary, in consultation  
24       with the Administrator and Secretary of Agri-

1 culture, shall consider the findings of the study  
 2 in addition to other economic factors.

3 (C) DEADLINE FOR ACTION ON PETI-  
 4 TIONS.—The Secretary shall act on any petition  
 5 submitted by a small refinery for a hardship ex-  
 6 emption not later than 90 days after the receipt  
 7 of the petition.

8 (5) CREDIT PROGRAM.—Subsection (f)(1)(C)  
 9 shall apply to each small refinery that waives an ex-  
 10 emption under this paragraph.

11 (6) OPT-IN FOR SMALL REFINERS.—A small re-  
 12 finery shall be subject to subsection (b) if the small  
 13 refinery notifies the Secretary that the small refinery  
 14 waives the exemption under paragraph (3).

15 (j) CELLULOSIC BIOMASS AND CANE SUGAR LOAN  
 16 GUARANTEE PROGRAM.—

17 (1) IN GENERAL.—Subject to the availability of  
 18 appropriations, funds shall be made available, and  
 19 remain available until expended, to pay the cost (as  
 20 defined in the Federal Credit Reform Act of 1990  
 21 (2 U.S.C. 661 et seq.)) of loan guarantees issued  
 22 under section 19 of the Federal Nonnuclear Energy  
 23 Research and Development Act of 1974 (42 U.S.C.  
 24 5919) to carry out commercial demonstration

1 projects for cellulosic biomass and sucrose-derived  
2 ethanol.

3 (2) DEMONSTRATION PROJECTS.—

4 (A) IN GENERAL.—The Secretary shall  
5 issue loan guarantees under this section to  
6 carry out projects to commercially demonstrate  
7 the feasibility and viability of converting cel-  
8 lulosic biomass derived from agricultural res-  
9 idue such as corn stover or straw or cane sugar  
10 and related products into ethanol.

11 (B) DESIGN CAPACITY.—Each project shall  
12 have a design capacity to produce at least  
13 15,000,000 gallons of cellulose ethanol each  
14 year.

15 (3) APPLICANT ASSURANCES.—An applicant for  
16 a loan guarantee under this section shall provide as-  
17 surances, satisfactory to the Secretary, that—

18 (A) the project design has been validated  
19 through the operation of a continuous process  
20 facility with a cumulative output of at least  
21 50,000 gallons of ethanol;

22 (B) the project has been subject to a full  
23 technical review;

24 (C) the project is covered by adequate  
25 project performance guarantees;

1 (D) the project, with the loan guarantee, is  
2 economically viable; and

3 (E) there is a reasonable assurance of re-  
4 payment of the guaranteed loan.

5 (4) LIMITATIONS.—

6 (A) MAXIMUM GUARANTEE.—Except as  
7 provided in subparagraph (B), notwithstanding  
8 section 19(c)(2)(A) of the Federal Nonnuclear  
9 Energy Research and Development Act of 1974  
10 (42 U.S.C. 5919(c)(2)(A)), a loan guarantee  
11 under this section may be issued for up to 80  
12 percent of the estimated cost of a project, but  
13 may not exceed \$250,000,000 for a project.

14 (B) ADDITIONAL GUARANTEES.—

15 (i) IN GENERAL.—The Secretary may  
16 issue additional loan guarantees for a  
17 project to cover up to 80 percent of the ex-  
18 cess of actual project cost over estimated  
19 project cost but not to exceed 15 percent  
20 of the amount of the original guarantee.

21 (ii) PRINCIPAL AND INTEREST.—Sub-  
22 ject to subparagraph (A), the Secretary  
23 shall guarantee 100 percent of the prin-  
24 cipal and interest of a loan made under  
25 subparagraph (A).

1           (5) EQUITY CONTRIBUTIONS.—To be eligible  
 2           for a loan guarantee under this section, an applicant  
 3           for the loan guarantee shall have binding commit-  
 4           ments from equity investors to provide an initial eq-  
 5           uity contribution of at least 20 percent of the total  
 6           project cost.

7           (6) EFFECT OF OTHER LAWS.—The following  
 8           provisions are inapplicable to a loan guarantee made  
 9           under this section:

10                   (A) Subsections (m) and (p) of section 19  
 11                   of the Federal Nonnuclear Energy Research  
 12                   and Development Act of 1974 (42 U.S.C.  
 13                   5919).

14                   (B) The first, third, and fourth sentences  
 15                   of section 19(g)(4) of that Act.

16           (7) APPLICATION.—An application for a loan  
 17           guarantee under this section shall be approved or  
 18           disapproved by the Secretary not later than 90 days  
 19           after the application is received by the Secretary.

20 **SEC. 205. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE**  
 21 **AND BIODIESEL PURCHASING REQUIRE-**  
 22 **MENT.**

23           (a) IN GENERAL.—Title III of the Energy Policy Act  
 24           of 1992 is amended by striking section 306 (42 U.S.C.  
 25           13215) and inserting the following:



1 **“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASO-**  
2 **LINE AND BIODIESEL PURCHASING REQUIRE-**  
3 **MENT.**

4 “(a) ETHANOL-BLENDED GASOLINE.—The head of  
5 each Federal agency shall ensure that, in areas in which  
6 ethanol-blended gasoline is reasonably available at a gen-  
7 erally competitive price, the Federal agency purchases eth-  
8 anol-blended gasoline containing at least 10 percent eth-  
9 anol rather than nonethanol-blended gasoline, for use in  
10 vehicles used by the agency that use gasoline.

11 “(b) BIODIESEL.—

12 “(1) DEFINITION OF BIODIESEL.—In this sub-  
13 section, the term ‘biodiesel’ has the meaning given  
14 the term in section 312(f).

15 “(2) REQUIREMENT.—The head of each Fed-  
16 eral agency shall ensure that the Federal agency  
17 purchases, for use in fueling fleet vehicles that use  
18 diesel fuel used by the Federal agency at the loca-  
19 tion at which fleet vehicles of the Federal agency are  
20 centrally fueled, in areas in which the biodiesel-  
21 blended diesel fuel described in subparagraphs (A)  
22 and (B) is available at a generally competitive  
23 price—

24 “(A) as of the date that is 5 years after  
25 the date of enactment of this paragraph, bio-  
26 diesel-blended diesel fuel that contains at least

1           2 percent biodiesel, rather than nonbiodiesel-  
2           blended diesel fuel; and

3           “(B) as of the date that is 10 years after  
4           the date of enactment of this paragraph, bio-  
5           diesel-blended diesel fuel that contains at least  
6           20 percent biodiesel, rather than nonbiodiesel-  
7           blended diesel fuel.

8           “(3) REQUIREMENT OF FEDERAL LAW.—The  
9           provisions of this subsection shall not be considered  
10          a requirement of Federal law for the purposes of  
11          section 312.

12          “(c) EXEMPTION.—This section does not apply to  
13          fuel used in vehicles excluded from the definition of ‘fleet’  
14          by subparagraphs (A) through (H) of section 301(9).”.

15          (b) TABLE OF CONTENTS AMENDMENT.—The table  
16          of contents of the Energy Policy Act of 1992 (42 U.S.C.  
17          prec. 13201) is amended by striking the item relating to  
18          section 306 and inserting the following:

            “Sec. 306. Federal agency ethanol-blended gasoline and biodiesel pur-  
  chasing requirement.”.

19   **SEC. 206. DATA COLLECTION.**

20          Section 205 of the Department of Energy Organiza-  
21          tion Act (42 U.S.C. 7135) is amended by adding at the  
22          end the following:

23          “(m)(1) In order to improve the ability to evaluate  
24          the effectiveness of the renewable fuels mandate of the

1 United States, the Administrator shall conduct and pub-  
2 lish the results of a survey of renewable fuels demand in  
3 the motor vehicle fuels market in the United States  
4 monthly, and in a manner designed to protect the con-  
5 fidentiality of individual responses.

6 “(2) In conducting the survey, the Administrator  
7 shall collect information both on a national and regional  
8 basis, including—

9 “(A) information on—

10 “(i) the quantity of renewable fuels pro-  
11 duced;

12 “(ii) the quantity of renewable fuels blend-  
13 ed;

14 “(iii) the quantity of renewable fuels im-  
15 ported; and

16 “(iv) the quantity of renewable fuels de-  
17 manded; and

18 “(B) market price data.”.

19 **SEC. 207. SUGAR CANE ETHANOL PROGRAM.**

20 (a) DEFINITION OF PROGRAM.—In this section, the  
21 term “program” means the Sugar Cane Ethanol Program  
22 established by subsection (b).

23 (b) ESTABLISHMENT.—There is established within  
24 the Department a program to be known as the “Sugar  
25 Cane Ethanol Program”.

1 (c) PROJECT.—

2 (1) IN GENERAL.—Subject to the availability of  
3 appropriations under subsection (d), in carrying out  
4 the program, the Secretary shall establish a project  
5 that is—

6 (A) carried out in multiple States—

7 (i) in each of which is produced cane  
8 sugar that is eligible for loans under sec-  
9 tion 156 of the Federal Agriculture Im-  
10 provement and Reform Act of 1996 (7  
11 U.S.C. 7272), or a similar subsequent au-  
12 thority; and

13 (ii) at the option of each such State,  
14 that have an incentive program that re-  
15 quires the use of ethanol in the State; and

16 (B) designed to study the production of  
17 ethanol from cane sugar, sugarcane, and sugar-  
18 cane byproducts.

19 (2) REQUIREMENTS.—A project described in  
20 paragraph (1) shall—

21 (A) be limited to the production of ethanol  
22 in the States of Florida, Louisiana, Texas, and  
23 Hawaii in a way similar to the existing program  
24 for the processing of corn for ethanol to dem-  
25 onstrate that the process may be applicable to

1 cane sugar, sugarcane, and sugarcane byprod-  
 2 ucts;

3 (B) include information on the ways in  
 4 which the scale of production may be replicated  
 5 once the sugar cane industry has located sites  
 6 for, and constructed, ethanol production facili-  
 7 ties; and

8 (C) not last more than 3 years.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
 10 authorized to be appropriated to carry out this section  
 11 \$36,000,000, to remain available until expended.

12 **SEC. 208. MODIFICATION OF COMMODITY CREDIT COR-**  
 13 **PORATION BIOENERGY PROGRAM.**

14 Section 9010(a)(3)(A) of the Farm Security and  
 15 Rural Investment Act of 2002 (7 U.S.C. 8108(a)(3)(A))  
 16 is amended by inserting “potatoes, sugarcane, sugar beets,  
 17 products of sugarcane or sugar beets,” after “sesame  
 18 seed,”.

19 **SEC. 209. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.**

20 (a) IN GENERAL.—Subject to the availability of ap-  
 21 propriations under subsection (d), the Secretary shall, in  
 22 consultation with the Secretary of Agriculture and the  
 23 Biomass Research and Development Technical Advisory  
 24 Committee established under section 306 of the Biomass  
 25 Research and Development Act of 2000 (Public Law 106–

1 224; 7 U.S.C. 8101 note), establish a program, to be  
2 known as the “Advanced Biofuel Technologies Program”,  
3 to demonstrate advanced technologies for the production  
4 of alternative transportation fuels.

5 (b) PRIORITY.—In carrying out the program under  
6 subsection (a), the Secretary shall give priority to projects  
7 that enhance the geographical diversity of alternative fuels  
8 production and utilize feedstocks that represent 10 per-  
9 cent or less of ethanol or biodiesel fuel production in the  
10 United States during the previous fiscal year.

11 (c) DEMONSTRATION PROJECTS.—

12 (1) IN GENERAL.—As part of the program  
13 under subsection (a), the Secretary shall fund dem-  
14 onstration projects—

15 (A) to develop not less than 4 different  
16 conversion technologies for producing cellulosic  
17 biomass ethanol; and

18 (B) to develop not less than 5 technologies  
19 for coproducing value-added bioproducts (such  
20 as fertilizers, herbicides, and pesticides) result-  
21 ing from the production of biodiesel fuel.

22 (2) ADMINISTRATION.—Demonstration projects  
23 under this subsection shall be—

24 (A) conducted based on a merit-reviewed,  
25 competitive process; and

1 (B) subject to the cost-sharing require-  
 2 ments of section 1002.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 4 are authorized to be appropriated to carry out this section  
 5 \$110,000,000 for each of fiscal years 2006 through 2010.

6 **SEC. 210. ASSISTANCE FOR RURAL COMMUNITIES WITH**  
 7 **HIGH ENERGY COSTS.**

8 Beginning on the date of enactment of this Act and  
 9 notwithstanding any other provision of law, the Secretary  
 10 and the Administrator of the Rural Utilities Service shall  
 11 use the authorities provided under the Rural Electrifica-  
 12 tion Act of 1936 (7 U.S.C. 901 et seq.) and section  
 13 331(b)(4) of the Consolidated Farm and Rural Develop-  
 14 ment Act (7 U.S.C. 1981(b)(4)) (including deferral, exten-  
 15 sion, refinancing, restructuring, and reduction of loans  
 16 made under those Acts) to aid electric borrowers that  
 17 serve rural communities in Alaska with extremely high en-  
 18 ergy costs to—

- 19 (1) reduce rates for customers;
- 20 (2) maintain reliable service;
- 21 (3) preserve the economic feasibility of the elec-
- 22 tric systems; and
- 23 (4) avoid default.

1           **Subtitle B—Insular Energy**

2   **SEC. 221. DEFINITIONS.**

3           In this subtitle:

4               (1) DISTRIBUTED GENERATION.—The term  
5           “distributed generation” means energy supplied in a  
6           rural or off-grid area.

7               (2) INSULAR AREA.—The term “insular area”  
8           means—

9                       (A) Guam;

10                      (B) American Samoa;

11                      (C) the Commonwealth of the Northern  
12           Mariana Islands;

13                      (D) the Federated States of Micronesia;

14                      (E) the Republic of the Marshall Islands;

15                      (F) the Republic of Palau;

16                      (G) the United States Virgin Islands; and

17                      (H) the Commonwealth of Puerto Rico.

18   **SEC. 222. ASSESSMENT.**

19           (a) IN GENERAL.—Not later than 1 year after the  
20   date of enactment of this Act, the Secretary (in consulta-  
21   tion with the Secretary of Interior) shall—

22               (1) conduct an assessment of the energy needs  
23           of insular areas; and

24               (2) submit a report describing the results of the  
25           assessment to—



1 (A) the Committee on Energy and Natural  
2 Resources of the Senate;

3 (B) the Committee on Energy and Com-  
4 merce of the House of Representatives; and

5 (C) the Committee on Resources of the  
6 House of Representatives.

7 (b) STRATEGIES AND PROJECTS.—In conducting the  
8 assessment, for each of the insular areas, the Secretary  
9 shall identify and evaluate the strategies or projects with  
10 the greatest potential for reducing the dependence of the  
11 insular area on imported fossil fuels as used for the gen-  
12 eration of electricity, including strategies and projects  
13 for—

14 (1) improved supply-side efficiency of central-  
15 ized electrical generation, transmission, and distribu-  
16 tion systems;

17 (2) improved demand-side management  
18 through—

19 (A) the application of established stand-  
20 ards for energy efficiency for appliances;

21 (B) the conduct of energy audits for busi-  
22 ness and industrial customers; and

23 (C) the use of energy savings performance  
24 contracts;

1           (3) increased use of renewable energy, includ-  
2       ing—

3           (A) solar thermal energy for electric gen-  
4       eration;

5           (B) solar thermal energy for water heating  
6       in large buildings, such as hotels, hospitals,  
7       government buildings, and residences;

8           (C) photovoltaic energy;

9           (D) wind energy;

10          (E) hydroelectric energy;

11          (F) wave energy;

12          (G) energy from ocean thermal resources,  
13       including ocean thermal-cooling for community  
14       air conditioning;

15          (H) water vapor condensation for the pro-  
16       duction of potable water;

17          (I) fossil fuel and renewable hybrid elec-  
18       trical generation systems; and

19          (J) other strategies or projects that the  
20       Secretary may identify as having significant po-  
21       tential; and

22       (4) fuel substitution and minimization with in-  
23       digenous biofuels, such as coconut oil.

24       (c) DISTRIBUTED GENERATION.—In conducting the  
25       assessment, for each insular area with a significant need

1 for distributed generation, the Secretary shall identify and  
2 evaluate the most promising strategies and projects de-  
3 scribed in paragraphs (3) and (4) of subsection (b) for  
4 meeting that need.

5 (d) FACTORS.—In assessing the potential of any  
6 strategy or project under this section, the Secretary shall  
7 consider—

8 (1) the estimated cost of the power or energy  
9 to be produced, including—

10 (A) any additional costs associated with  
11 the distribution of the generation; and

12 (B) the long-term availability of the gen-  
13 eration source;

14 (2) the capacity of the local electrical utility to  
15 manage, operate, and maintain any project that may  
16 be undertaken; and

17 (3) other factors the Secretary considers to be  
18 appropriate.

19 **SEC. 223. PROJECT FEASIBILITY STUDIES.**

20 (a) IN GENERAL.—On a request described in sub-  
21 section (b), the Secretary shall conduct a feasibility study  
22 of a project to implement a strategy or project identified  
23 under section 222 as having the potential to—

24 (1) significantly reduce the dependence of an  
25 insular area on imported oil; or

1           (2) provide needed distributed generation to an  
2       insular area.

3       (b) REQUEST.—The Secretary shall conduct a feasi-  
4       bility study under subsection (a) on—

5           (1) the request of an electric utility located in  
6       an insular area that commits to fund at least 10  
7       percent of the cost of the study; and

8           (2) if the electric utility is located in the Fed-  
9       erated States of Micronesia, the Republic of the  
10      Marshall Islands, or the Republic of Palau, written  
11      support for that request by the President or the Am-  
12      bassador of the affected freely associated state.

13      (c) CONSULTATION.—The Secretary shall consult  
14      with regional utility organizations in—

15           (1) conducting feasibility studies under sub-  
16      section (a); and

17           (2) determining the feasibility of potential  
18      projects.

19      (d) FEASIBILITY.—For the purpose of a feasibility  
20      study under subsection (a), a project shall be determined  
21      to be feasible if the project would significantly reduce the  
22      dependence of an insular area on imported fossil fuels, or  
23      provide needed distributed generation to an insular area,  
24      at a reasonable cost.

1 **SEC. 224. IMPLEMENTATION.**

2 (a) IN GENERAL.—On a determination by the Sec-  
3 retary (in consultation with the Secretary of the Interior)  
4 that a project is feasible under section 223 and a commit-  
5 ment by an electric utility to operate and maintain the  
6 project, the Secretary may provide such technical and fi-  
7 nancial assistance as the Secretary determines is appro-  
8 priate for the implementation of the project.

9 (b) REGIONAL UTILITY ORGANIZATIONS.—In pro-  
10 viding assistance under subsection (a), the Secretary shall  
11 consider providing the assistance through regional utility  
12 organizations.

13 **SEC. 225. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) IN GENERAL.—There are authorized to be appro-  
15 priated to the Secretary—

16 (1) \$500,000 for the completion of the assess-  
17 ment under section 222;

18 (2) \$500,000 for each fiscal year for project  
19 feasibility studies under section 223; and

20 (3) \$5,000,000 for each fiscal year for project  
21 implementation under section 224.

22 (b) LIMITATION OF FUNDS RECEIVED BY INSULAR  
23 AREAS.—No insular area may receive, during any 3-year  
24 period, more than 20 percent of the total funds made  
25 available during that 3-year period under paragraphs (2)  
26 and (3) of subsection (a) unless the Secretary determines

1 that providing funding in excess of that percentage best  
2 advances existing opportunities to meet the objectives of  
3 this subtitle.

## 4       **Subtitle C—Biomass Energy**

### 5   **SEC. 231. DEFINITIONS.**

6       In this subtitle:

7           (1) BIOMASS.—The term “biomass” means  
8       nonmerchantable material from, or precommercial  
9       thinnings of, trees and woody plants produced from  
10      treatments—

11                   (A) to reduce hazardous fuels;

12                   (B) to reduce or contain disease or insect  
13      infestations; or

14                   (C) to restore forest health.

15           (2) ELIGIBLE COMMUNITY.—The term “eligible  
16      community” means an Indian Reservation, or a  
17      county, town, township, municipality, or other simi-  
18      lar unit of local government with a population of not  
19      more than 50,000 individuals that the Secretary de-  
20      termines is located in an area near Federal or In-  
21      dian land, that is—

22                   (A) at significant risk of catastrophic wild-  
23      fire, disease, or insect infestation; or

24                   (B) diseased or infested by insects.

1           (3) ELIGIBLE OPERATION.—The term “eligible  
2 operation” means a facility that—

3               (A) is located within the boundaries of an  
4 eligible community; and

5               (B) uses biomass from Federal or Indian  
6 land as a raw material to produce electric en-  
7 ergy, sensible heat, or transportation fuels.

8           (4) GREEN TON.—The term “green ton” means  
9 2,000 pounds of biomass that has not been mechani-  
10 cally or artificially dried.

11           (5) INDIAN TRIBE.—The term “Indian tribe”  
12 has the meaning given the term in section 4(e) of  
13 the Indian Self-Determination and Education Assist-  
14 ance Act (25 U.S.C. 450b(e)).

15           (6) PERSON.—The term “person” includes—

16               (A) an individual;

17               (B) an eligible community;

18               (C) an Indian tribe;

19               (D) a small business or a corporation that  
20 is incorporated in the United States; and

21               (E) a nonprofit organization.

22           (7) SECRETARY.—The term “Secretary”  
23 means—

1 (A) the Secretary of Agriculture, with re-  
2 spect to land within the National Forest Sys-  
3 tem; or

4 (B) the Secretary of the Interior, with re-  
5 spect to Federal land under the jurisdiction of  
6 the Secretary of the Interior and Indian land.

7 **SEC. 232. BIOMASS COMMERCIAL UTILIZATION GRANT PRO-**  
8 **GRAM.**

9 (a) IN GENERAL.—The Secretary may make grants  
10 to any person that owns or operates an eligible operation  
11 to offset the costs incurred to purchase biomass for use  
12 by the eligible operation.

13 (b) PRIORITY.—In making grants under subsection  
14 (a), the Secretary shall give priority to eligible operations  
15 that use biomass from the highest risk areas, as deter-  
16 mined by the Secretary.

17 (c) GRANT AMOUNT.—A grant provided under this  
18 section may not exceed \$20 per green ton of biomass deliv-  
19 ered.

20 (d) MONITORING OF GRANT RECIPIENT ACTIVI-  
21 TIES.—

22 (1) IN GENERAL.—As a condition of a grant  
23 under this section, the grant recipient shall keep  
24 such records as the Secretary may require to fully



1 and correctly disclose the use of the grant funds and  
2 all transactions involved in the purchase of biomass.

3 (2) ACCESS.—On notice by the Secretary, the  
4 grant recipient shall provide the Secretary reason-  
5 able access to examine the inventory and records of  
6 the eligible operation.

7 (e) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—There are authorized to be  
9 appropriated to carry out this section for each of fis-  
10 cal years 2006 through 2010—

11 (A) \$12,500,000 to the Secretary of Agri-  
12 culture; and

13 (B) \$12,500,000 to the Secretary of the  
14 Interior.

15 (2) AVAILABILITY.—Amounts made available  
16 under paragraph (1) shall remain available until ex-  
17 pended.

18 **SEC. 233. IMPROVED BIOMASS UTILIZATION PROGRAM.**

19 (a) IN GENERAL.—The Secretary may provide grants  
20 to persons in eligible communities to offset the costs of  
21 developing or researching proposals to improve the use of  
22 biomass or add value to biomass utilization.

23 (b) SELECTION.—Grant recipients shall be selected  
24 based on the potential of a proposal to—

1           (1) develop affordable thermal or electric energy  
2 resources for the benefit of an eligible community;

3           (2) provide opportunities for the creation or ex-  
4 pansion of small business concerns within an eligible  
5 community;

6           (3) create new job opportunities within an eligi-  
7 ble community;

8           (4) improve efficiency or develop cleaner tech-  
9 nologies for biomass utilization; and

10          (5) reduce the hazardous fuel from the highest  
11 risk areas.

12          (c) LIMITATION.—No grant provided under this sec-  
13 tion shall exceed \$500,000.

14          (d) AUTHORIZATION OF APPROPRIATIONS.—

15           (1) IN GENERAL.—There are authorized to be  
16 appropriated to carry out this section for each of fis-  
17 cal years 2006 through 2010—

18           (A) \$12,500,000 to the Secretary of Agri-  
19 culture; and

20           (B) \$12,500,000 to the Secretary of the  
21 Interior.

22          (2) AVAILABILITY.—Amounts made available  
23 under paragraph (1) shall remain available until ex-  
24 pended.

1 **SEC. 234. REPORT.**

2 Not later than 3 years after the date of enactment  
 3 of this Act, the Secretary of Agriculture and the Secretary  
 4 of the Interior shall jointly submit to Congress a report  
 5 that describes the interim results of the programs carried  
 6 out under sections 232 and 233.

7 **Subtitle D—Geothermal Energy**

8 **SEC. 241. COMPETITIVE LEASE SALE REQUIREMENTS.**

9 Section 4 of the Geothermal Steam Act of 1970 (30  
 10 U.S.C. 1003) is amended to read as follows:

11 **“SEC. 4. LEASING PROCEDURES.**

12 “(a) **NOMINATIONS.**—The Secretary shall accept  
 13 nominations of land to be leased at any time from quali-  
 14 fied companies and individuals under this Act.

15 “(b) **COMPETITIVE LEASE SALE REQUIRED.**—

16 “(1) **IN GENERAL.**—Except as otherwise specifi-  
 17 cally provided by this Act, all land to be leased that  
 18 is not subject to leasing under subsection (c) shall  
 19 be leased as provided in this subsection to the high-  
 20 est responsible qualified bidder, as determined by  
 21 the Secretary.

22 “(2) **COMPETITIVE LEASE SALES.**—The Sec-  
 23 retary shall hold a competitive lease sale at least  
 24 once every 2 years for land in a State that has nomi-  
 25 nations pending under subsection (a) if the land is  
 26 otherwise available for leasing.

1       “(c) NONCOMPETITIVE LEASING.—The Secretary  
 2 shall make available for a period of 2 years for non-  
 3 competitive leasing any tract for which a competitive lease  
 4 sale is held, but for which the Secretary does not receive  
 5 any bids in a competitive lease sale.

6       “(d) PENDING LEASE APPLICATIONS.—

7           “(1) IN GENERAL.—It shall be a priority for  
 8 the Secretary, and for the Secretary of Agriculture  
 9 with respect to National Forest Systems land, to en-  
 10 sure timely completion of administrative actions nec-  
 11 essary to process applications for geothermal leasing  
 12 pending on May 19, 2005.

13           “(2) ADMINISTRATION.—An application de-  
 14 scribed in paragraph (1) and any lease issued pursu-  
 15 ant to the application—

16           “(A) except as provided in subparagraph  
 17 (B), shall be subject to this section as in effect  
 18 on the day before the date of enactment of this  
 19 paragraph; or

20           “(B) at the election of the applicant, shall  
 21 be subject to this section as in effect on the ef-  
 22 fective date of this paragraph.”.

1 **SEC. 242. DIRECT USE.**

2 (a) FEES FOR DIRECT USE.—Section 5 of the Geo-  
3 thermal Steam Act of 1970 (30 U.S.C. 1004) is amend-  
4 ed—

5 (1) in subsection (c), by redesignating para-  
6 graphs (1) and (2) as subparagraphs (A) and (B),  
7 respectively;

8 (2) by redesignating subsections (a) through (d)  
9 as paragraphs (1) through (4), respectively;

10 (3) by inserting “(a) IN GENERAL.—” after  
11 “SEC. 5.”; and

12 (4) by adding at the end the following:

13 “(d) DIRECT USE.—

14 “(1) IN GENERAL.—Notwithstanding subsection  
15 (a)(1), the Secretary shall establish a schedule of  
16 fees, in lieu of royalties for geothermal resources,  
17 that a lessee or its affiliate—

18 “(A) uses for a purpose other than the  
19 commercial generation of electricity; and

20 “(B) does not sell.

21 “(2) SCHEDULE OF FEES.—The schedule of  
22 fees—

23 “(A) may be based on the quantity or ther-  
24 mal content, or both, of geothermal resources  
25 used or any other basis that the Secretary finds  
26 appropriate under the circumstances; and

1                   “(B) shall ensure a fair return to the  
2                   United States for use of the resource.

3                   “(3) STATE OR LOCAL GOVERNMENTS.—If a  
4                   State or local government is the lessee and uses geo-  
5                   thermal resources without sale and for purposes  
6                   other than commercial generation of electricity, the  
7                   Secretary shall charge only a nominal fee for use of  
8                   the resource.”.

9                   (b) LEASING FOR DIRECT USE.—Section 4 of the  
10                  Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as  
11                  amended by section 241) is amended adding at the end  
12                  the following:

13                 “(e) LEASING FOR DIRECT USE OF GEOTHERMAL  
14                  RESOURCES.—Notwithstanding subsection (b), the Sec-  
15                  retary may identify areas in which the land to be leased  
16                  under this Act exclusively for direct use of geothermal re-  
17                  sources without sale for purposes other than commercial  
18                  generation of electricity may be leased to any qualified ap-  
19                  plicant that first applies for such a lease under regulations  
20                  issued by the Secretary, if the Secretary—

21                 “(1) publishes a notice of the land proposed for  
22                  leasing not later than 120 days before the date of  
23                  the issuance of the lease;

24                 “(2) does not receive during the 120-day period  
25                  beginning on the date of the publication any nomi-

1 nation to include the land concerned in the next  
2 competitive lease sale; and

3 “(3) determines there is no competitive interest  
4 in the land to be leased.

5 “(f) AREA SUBJECT TO LEASE FOR DIRECT USE.—

6 “(1) IN GENERAL.—Subject to paragraph (2), a  
7 geothermal lease for the direct use of geothermal re-  
8 sources shall cover not more than the quantity of  
9 acreage determined by the Secretary to be reason-  
10 ably necessary for the proposed use.

11 “(2) LIMITATIONS.—The quantity of acreage  
12 covered by the lease shall not exceed the limitations  
13 established under section 7.”.

14 **SEC. 243. ROYALTIES.**

15 (a) CALCULATION OF ROYALTIES.—

16 (1) IN GENERAL.—Not later than 1 year after  
17 the date of enactment of this Act, the Secretary of  
18 the Interior shall issue a final regulation that pro-  
19 vides a simplified methodology for calculating the  
20 royalty under subsection (a)(1) of section 5 of the  
21 Geothermal Steam Act of 1970 (30 U.S.C. 1004)  
22 (as amended by section 242(a)).

23 (2) CONSIDERATIONS.—In issuing the final reg-  
24 ulation under paragraph (1), the Secretary shall—

1 (A) consider the use of a method based on  
2 gross proceeds from the sale of electricity; and

3 (B) ensure that the final regulation issued  
4 under paragraph (1) results in the same level of  
5 royalty revenues over a 10-year period as the  
6 regulation in effect on the day before the date  
7 of enactment of this Act.

8 (b) ROYALTY UNDER EXISTING LEASES.—

9 (1) IN GENERAL.—Any lessee under a lease  
10 issued under the Geothermal Steam Act of 1970 (30  
11 U.S.C. 1001 et seq.) before the date of enactment  
12 of this Act may, within the time period specified in  
13 paragraph (2), submit to the Secretary of the Inte-  
14 rior a request to modify the terms of the lease relat-  
15 ing to payment of royalties to comply with—

16 (A) in the case of a lease that meets the  
17 requirements of subsection (b) of section 5 of  
18 the Geothermal Steam Act of 1970 (30 U.S.C.  
19 1004) (as amended by section 242(a)), the  
20 schedule of fees established under that section;  
21 and

22 (B) in the case of any other lease, the  
23 methodology established under subsection (a).



1           (2) TIMING.—A request for a modification  
2       under paragraph (1) shall be submitted to the Sec-  
3       retary by the date that is not later than—

4           (A) in the case of a lease for direct use, 18  
5       months after the effective date of the schedule  
6       of fees established by the Secretary under sec-  
7       tion 5 of the Geothermal Steam Act of 1970  
8       (30 U.S.C. 1004); or

9           (B) in the case of any other lease, 18  
10      months after the effective date of the final reg-  
11      ulation issued under subsection (a).

12          (3) APPLICATION OF MODIFICATION.—If the  
13      lessee requests modification of a lease under para-  
14      graph (1)—

15          (A) the Secretary shall modify the lease to  
16      comply with—

17              (i) in the case of a lease for direct  
18          use, the schedule of fees established by the  
19          Secretary under section 5 of the Geo-  
20          thermal Steam Act of 1970 (30 U.S.C.  
21          1004); or

22              (ii) in the case of any other lease, the  
23          methodology established under subsection  
24          (a); and

1 (B) the modification shall apply to any use  
2 of geothermal steam and any associated geo-  
3 thermal resources to which subsection (a) ap-  
4 plies that occurs after the date of the modifica-  
5 tion.

6 (4) CONSULTATION.—The Secretary shall con-  
7 sult with the State and local governments affected  
8 by any proposed changes in lease royalty terms  
9 under this subsection.

10 **SEC. 244. GEOTHERMAL LEASING AND PERMITTING ON**  
11 **FEDERAL LAND.**

12 (a) IN GENERAL.—Not later than 180 days after the  
13 date of enactment of this section, the Secretary of the In-  
14 terior and the Secretary of Agriculture shall enter into,  
15 and submit to Congress, a memorandum of understanding  
16 in accordance with this section regarding leasing and per-  
17 mitting for geothermal development of public land and Na-  
18 tional Forest System land under the respective jurisdic-  
19 tions of the Secretaries.

20 (b) LEASE AND PERMIT APPLICATIONS.—The memo-  
21 randum of understanding shall—

22 (1) identify areas with geothermal potential on  
23 land included in the National Forest System and, if  
24 necessary, require review of management plans to

1 consider leasing under the Geothermal Steam Act of  
2 1970 (30 U.S.C. 1001 et seq.) as a land use; and

3 (2) establish an administrative procedure for  
4 processing geothermal lease applications, including  
5 lines of authority, steps in application processing,  
6 and time limits for application processing.

7 (c) DATA RETRIEVAL SYSTEM.—The memorandum  
8 of understanding shall establish a joint data retrieval sys-  
9 tem that—

10 (1) is capable of tracking lease and permit ap-  
11 plications; and

12 (2) provides to the applicant information as to  
13 the status of an application within the Departments  
14 of the Interior and Agriculture, including an esti-  
15 mate of the time required for administrative action.

16 **SEC. 245. ASSESSMENT OF GEOTHERMAL ENERGY POTEN-**  
17 **TIAL.**

18 Not later than 3 years after the date of enactment  
19 of this Act and thereafter as the availability of data and  
20 developments in technology warrants, the Secretary of the  
21 Interior, acting through the Director of the United States  
22 Geological Survey and in cooperation with the States,  
23 shall—

24 (1) update the Assessment of Geothermal Re-  
25 sources made during 1978; and

1           (2) submit to Congress the updated assessment.

2   **SEC. 246. COOPERATIVE OR UNIT PLANS.**

3           Section 18 of the Geothermal Steam Act of 1970 (30  
4 U.S.C. 1017) is amended to read as follows:

5   **“SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.**

6           “(a) ADOPTION OF UNITS BY LESSEES.—

7           “(1) IN GENERAL.—For the purpose of more  
8 properly conserving the natural resources of any  
9 geothermal reservoir, field, or like area, or any part  
10 thereof (whether or not any part of the geothermal  
11 reservoir, field, or like area, is subject to any cooper-  
12 ative plan of development or operation (referred to  
13 in this section as a ‘unit agreement’)), lessees there-  
14 of and their representatives may unite with each  
15 other, or jointly or separately with others, in collec-  
16 tively adopting and operating under a unit agree-  
17 ment for the reservoir, field, or like area, or any  
18 part thereof, including direct use resources, if deter-  
19 mined and certified by the Secretary to be necessary  
20 or advisable in the public interest.

21           “(2) MAJORITY INTEREST OF SINGLE  
22 LEASES.—A majority interest of owners of any sin-  
23 gle lease shall have the authority to commit the lease  
24 to a unit agreement.

1           “(3) INITIATIVE OF SECRETARY.—The Sec-  
 2       retary may also initiate the formation of a unit  
 3       agreement, or require an existing Federal lease to  
 4       commit to a unit agreement, if in the public interest.

5           “(4) MODIFICATION OF LEASE REQUIREMENTS  
 6       BY SECRETARY.—

7           “(A) IN GENERAL.—The Secretary may, in  
 8       the discretion of the Secretary and with the  
 9       consent of the holders of leases involved, estab-  
 10      lish, alter, change, or revoke rates of operations  
 11      (including drilling, operations, production, and  
 12      other requirements) of the leases and make con-  
 13      ditions with respect to the leases, with the con-  
 14      sent of the lessees, in connection with the cre-  
 15      ation and operation of any such unit agreement  
 16      as the Secretary may consider necessary or ad-  
 17      visable to secure the protection of the public in-  
 18      terest.

19          “(B) UNLIKE TERMS OR RATES.—Leases  
 20      with unlike lease terms or royalty rates shall  
 21      not be required to be modified to be in the  
 22      same unit.

23          “(b) REQUIREMENT OF PLANS UNDER NEW  
 24      LEASES.—The Secretary may—

1           “(1) provide that geothermal leases issued  
2           under this Act shall contain a provision requiring  
3           the lessee to operate under a unit agreement; and

4           “(2) prescribe the unit agreement under which  
5           the lessee shall operate, which shall adequately pro-  
6           tect the rights of all parties in interest, including the  
7           United States.

8           “(c) MODIFICATION OF RATE OF PROSPECTING, DE-  
9           VELOPMENT, AND PRODUCTION.—The Secretary may re-  
10          quire that any unit agreement authorized by this section  
11          that applies to land owned by the United States contain  
12          a provision under which authority is vested in the Sec-  
13          retary, or any person, committee, or State or Federal offi-  
14          cer or agency as may be designated in the unit agreement  
15          to alter or modify, from time to time, the rate of  
16          prospecting and development and the quantity and rate  
17          of production under the unit agreement.

18          “(d) EXCLUSION FROM DETERMINATION OF HOLD-  
19          ING OR CONTROL.—Any land that is subject to a unit  
20          agreement approved or prescribed by the Secretary under  
21          this section shall not be considered in determining hold-  
22          ings or control under section 7.

23          “(e) POOLING OF CERTAIN LAND.—If separate  
24          tracts of land cannot be independently developed and oper-

1 ated to use geothermal steam and associated geothermal  
 2 resources pursuant to any section of this Act—

3 “(1) the land, or a portion of the land, may be  
 4 pooled with other land, whether or not owned by the  
 5 United States, for purposes of development and op-  
 6 eration under a communitization agreement pro-  
 7 viding for an apportionment of production or royal-  
 8 ties among the separate tracts of land comprising  
 9 the production unit, if the pooling is determined by  
 10 the Secretary to be in the public interest; and

11 “(2) operation or production pursuant to the  
 12 communitization agreement shall be treated as oper-  
 13 ation or production with respect to each tract of  
 14 land that is subject to the communitization agree-  
 15 ment.

16 “(f) UNIT AGREEMENT REVIEW.—

17 “(1) IN GENERAL.—Not later than 5 years  
 18 after the date of approval of any unit agreement and  
 19 at least every 5 years thereafter, the Secretary  
 20 shall—

21 “(A) review each unit agreement; and

22 “(B) after notice and opportunity for com-  
 23 ment, eliminate from inclusion in the unit  
 24 agreement any land that the Secretary deter-

1 mines is not reasonably necessary for unit oper-  
 2 ations under the unit agreement.

3 “(2) BASIS FOR ELIMINATION.—The elimi-  
 4 nation shall—

5 “(A) be based on scientific evidence; and

6 “(B) occur only if the elimination is deter-  
 7 mined by the Secretary to be for the purpose of  
 8 conserving and properly managing the geo-  
 9 thermal resource.

10 “(3) EXTENSION.—Any land eliminated under  
 11 this subsection shall be eligible for an extension  
 12 under section 6(g) if the land meets the require-  
 13 ments for the extension.

14 “(g) DRILLING OR DEVELOPMENT CONTRACTS.—

15 “(1) IN GENERAL.—The Secretary may, on  
 16 such conditions as the Secretary may prescribe, ap-  
 17 prove drilling or development contracts made by 1 or  
 18 more lessees of geothermal leases, with 1 or more  
 19 persons, associations, or corporations if, in the dis-  
 20 cretion of the Secretary, the conservation of natural  
 21 resources or the public convenience or necessity may  
 22 require or the interests of the United States may be  
 23 best served by the approval.

24 “(2) HOLDINGS OR CONTROL.—Each lease op-  
 25 erated under an approved drilling or development



1 contract, and interest under the contract, shall be  
 2 excepted in determining holdings or control under  
 3 section 7.

4 “(h) COORDINATION WITH STATE GOVERNMENTS.—  
 5 The Secretary shall coordinate unitization and pooling ac-  
 6 tivities with appropriate State agencies.”.

7 **SEC. 247. ROYALTY ON BYPRODUCTS.**

8 Section 5 of the Geothermal Steam Act of 1970 (30  
 9 U.S.C. 1004) (as amended by section 242(a)) is amended  
 10 in subsection (a) by striking paragraph (2) and inserting  
 11 the following:

12 “(2) a royalty on any byproduct that is a min-  
 13 eral specified in the first section of the Mineral  
 14 Leasing Act (30 U.S.C. 181), and that is derived  
 15 from production under the lease, at the rate of the  
 16 royalty that applies under that Act to production of  
 17 the mineral under a lease under that Act;”.

18 **SEC. 248. LEASE DURATION AND WORK COMMITMENT RE-**  
 19 **QUIREMENTS.**

20 Section 6(i) of the Geothermal Steam Act of 1970  
 21 (30 U.S.C. 1005(i)) is amended by striking paragraph (2)  
 22 and inserting the following:

23 “(2) The Secretary shall, by regulation, establish pay-  
 24 ments under this subsection at levels that ensure the dili-  
 25 gent development of the lease.”.

1 **SEC. 249. ANNUAL RENTAL.**

2 (a) ANNUAL RENTAL RATE.—Section 5 of the Geo-  
3 thermal Steam Act of 1970 (30 U.S.C. 1004) (as amended  
4 by section 242(a)) is amended in subsection (a) by striking  
5 paragraph (3) and inserting the following:

6 “(3) payment in advance of an annual rental of  
7 not less than—

8 “(A) for each of the first through tenth  
9 years of the lease—

10 “(i) in the case of a lease awarded in  
11 a noncompetitive lease sale, \$1 per acre or  
12 fraction thereof; or

13 “(ii) in the case of a lease awarded in  
14 a competitive lease sale, \$2 per acre or  
15 fraction thereof for the first year and \$3  
16 per acre or fraction thereof for each of the  
17 second through 10th years; and

18 “(B) for each year after the 10th year of  
19 the lease, \$5 per acre or fraction thereof;”.

20 (b) TERMINATION OF LEASE FOR FAILURE TO PAY  
21 RENTAL.—Section 5 of the Geothermal Steam Act of  
22 1970 (30 U.S.C. 1004) (as amended by section 242(a))  
23 is amended by adding at the end the following:

24 “(c) TERMINATION OF LEASE FOR FAILURE TO PAY  
25 RENTAL.—

1           “(1) IN GENERAL.—The Secretary shall termi-  
 2       nate any lease with respect to which rental is not  
 3       paid in accordance with this Act and the terms of  
 4       the lease under which the rental is required, on the  
 5       expiration of the 45-day period beginning on the  
 6       date of the failure to pay the rental.

7           “(2) NOTIFICATION.—The Secretary shall  
 8       promptly notify a lessee that has not paid rental re-  
 9       quired under the lease that the lease will be termi-  
 10      nated at the end of the period referred to in para-  
 11      graph (1).

12          “(3) REINSTATEMENT.—A lease that would  
 13      otherwise terminate under paragraph (1) shall not  
 14      terminate under that paragraph if the lessee pays to  
 15      the Secretary, before the end of the period referred  
 16      to in paragraph (1), the amount of rental due plus  
 17      a late fee equal to 10 percent of the amount.”.

18 **SEC. 250. ADVANCED ROYALTIES REQUIRED FOR CES-**  
 19 **SATION OF PRODUCTION.**

20           Section 5 of the Geothermal Steam Act of 1970  
 21 (30 U.S.C. 1004) (as amended by section 249(b)) is  
 22 amended by adding at the end the following:

23           “(d) ADVANCED ROYALTIES REQUIRED FOR CES-  
 24 SATION OF PRODUCTION.—

1           “(1) IN GENERAL.—Subject to paragraphs (2)  
2           and (3), if, at any time after commercial production  
3           under a lease is achieved, production ceases for any  
4           reason, the lease shall remain in full force and effect  
5           for a period of not more than an aggregate number  
6           of 10 years beginning on the date production ceases,  
7           if, during the period in which production is ceased,  
8           the lessee pays royalties in advance at the monthly  
9           average rate at which the royalty was paid during  
10          the period of production.

11          “(2) REDUCTION.—The amount of any produc-  
12          tion royalty paid for any year shall be reduced (but  
13          not below 0) by the amount of any advanced royal-  
14          ties paid under the lease to the extent that the ad-  
15          vance royalties have not been used to reduce produc-  
16          tion royalties for a prior year.

17          “(3) EXCEPTIONS.—Paragraph (1) shall not  
18          apply if the cessation in production is required or  
19          otherwise caused by—

20                 “(A) the Secretary;

21                 “(B) the Secretary of the Air Force;

22                 “(C) the Secretary of the Army;

23                 “(D) the Secretary of the Navy;

24                 “(E) a State or a political subdivision of a  
25          State; or

1 “(F) a force majeure.”.

2 **SEC. 251. LEASING AND PERMITTING ON FEDERAL LAND**  
 3 **WITHDRAWN FOR MILITARY PURPOSES.**

4 (a) IN GENERAL.—Not later than 2 years after the  
 5 date of enactment of this Act, the Secretary of the Interior  
 6 and the Secretary of Defense, in consultation with the Sec-  
 7 retary of the Air Force, the Secretary of the Army, the  
 8 Secretary of the Navy, interested States, political subdivi-  
 9 sions of States, and representatives of the geothermal in-  
 10 dustry, and other interested persons, shall submit to the  
 11 appropriate committees of Congress a joint report on leas-  
 12 ing and permitting activities for geothermal energy on  
 13 Federal land withdrawn for military purposes.

14 (b) REQUIREMENTS.—The report required under  
 15 subsection (a) shall include—

16 (1) a description of the military geothermal pro-  
 17 gram, including a description of—

18 (A) any differences between the military  
 19 geothermal program and the nonmilitary geo-  
 20 thermal program, including required security  
 21 procedures and operational considerations; and

22 (B) the reasons the differences described  
 23 in subparagraph (A) are significant;

24 (2) with respect to the military geothermal pro-  
 25 gram, a description of—

1 (A) revenues or energy provided to the De-  
2 partment of Defense and facilities of the De-  
3 partment Defense; and

4 (B) royalty structures, as applicable;

5 (3) any revenue sharing with States and polit-  
6 ical subdivisions of States and other benefits from—

7 (A) the implementation of the Geothermal  
8 Steam Act of 1970 (30 U.S.C 1001 et seq.) and  
9 other applicable Federal law by the Secretary of  
10 the Interior; and

11 (B) the administration of geothermal leas-  
12 ing under section 2689 of title 10, United  
13 States Code, by the Secretary of Defense;

14 (4) if appropriate—

15 (A) a description of the current methods  
16 and procedures used to ensure interagency co-  
17 ordination, as needed, in developing renewable  
18 energy sources on Federal land withdrawn for  
19 military purposes; and

20 (B) an identification of any new proce-  
21 dures that would improve interagency coordina-  
22 tion to ensure efficient processing and adminis-  
23 tration of leases or contracts for geothermal en-  
24 ergy on Federal land withdrawn for military

1 purposes, consistent with the defense purposes  
2 of the withdrawals; and

3 (5) recommendations for any legislative or ad-  
4 ministrative actions that would increase geothermal  
5 production, including—

6 (A) a common royalty structure;

7 (B) leasing procedures; and

8 (C) other changes that—

9 (i) increase production;

10 (ii) offset military operation costs; or

11 (iii) enhance the ability of Federal  
12 agencies to develop geothermal resources.

13 (c) EFFECT.—Nothing in this section affects the  
14 legal status of geothermal leasing and development con-  
15 ducted by the Department of the Interior and the Depart-  
16 ment of Defense.

17 **SEC. 252. TECHNICAL AMENDMENTS.**

18 (a) The Geothermal Steam Act of 1970 (30 U.S.C.  
19 1001 et seq.) is amended by striking “geothermal steam  
20 and associated geothermal resources” each place it ap-  
21 pears and inserting “geothermal resources”.

22 (b) The first section of the Geothermal Steam Act  
23 of 1970 (30 U.S.C. 1001 note) is amended by striking  
24 “That this” and inserting the following:

1 **“SECTION 1. SHORT TITLE.**

2 “This”.

3 (c) Section 2 of the Geothermal Steam Act of 1970  
4 (30 U.S.C. 1001) is amended—

5 (1) by striking “SEC. 2. As” and inserting the  
6 following:

7 **“SEC. 2. DEFINITIONS.**

8 “As”; and

9 (2) by striking subsection (e) and inserting the  
10 following:

11 “(e) ‘direct use’ means use of geothermal re-  
12 sources for commercial, residential, agricultural,  
13 public facilities, or other energy needs other than the  
14 commercial production of electricity; and”.

15 (d) Section 3 of the Geothermal Steam Act of 1970  
16 (30 U.S.C. 1002) is amended by striking “SEC. 3. Sub-  
17 ject” and inserting the following:

18 **“SEC. 3 . LANDS SUBJECT TO GEOTHERMAL LEASING.**

19 “Subject”.

20 (e) Section 5 of the Geothermal Steam Act of 1970  
21 (30 U.S.C. 1004) is amended by striking “SEC. 5. Geo-  
22 thermal” and inserting the following:

23 **“SEC. 5. RENTS AND ROYALTIES.**

24 “Geothermal”.



1 (f) Section 6 of the Geothermal Steam Act of 1970  
2 (30 U.S.C. 1005) is amended by striking “SEC. 6. (a)  
3 The” and inserting the following:

4 **“SEC. 6. DURATION OF LEASES.**

5 “(a) The”.

6 (g) Section 7 of the Geothermal Steam Act of 1970  
7 (30 U.S.C. 1006) is amended by striking “SEC. 7. A geo-  
8 thermal” and inserting the following:

9 **“SEC. 7. ACREAGE OF GEOTHERMAL LEASE.**

10 “A geothermal”.

11 (h) Section 8 of the Geothermal Steam Act of 1970  
12 (30 U.S.C. 1007) is amended by striking “SEC. 8. (a)  
13 The” and inserting the following:

14 **“SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDI-**  
15 **TIONS.**

16 “(a) The”.

17 (i) Section 9 of the Geothermal Steam Act of 1970  
18 (30 U.S.C. 1008) is amended by striking “SEC. 9. If” and  
19 inserting the following:

20 **“SEC. 9. BYPRODUCTS.**

21 “If”.

22 (j) Section 10 of the Geothermal Steam Act of 1970  
23 (30 U.S.C. 1009) is amended by striking “SEC. 10. The”  
24 and inserting the following:

1 **“SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.**

2 “The”.

3 (k) Section 11 of the Geothermal Steam Act of 1970  
4 (30 U.S.C. 1010) is amended by striking “SEC. 11. The”  
5 and inserting the following:

6 **“SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.**

7 “The”.

8 (l) Section 12 of the Geothermal Steam Act of 1970  
9 (30 U.S.C. 1011) is amended by striking “SEC. 12.  
10 Leases” and inserting the following:

11 **“SEC. 12. TERMINATION OF LEASES.**

12 “Leases”.

13 (m) Section 13 of the Geothermal Steam Act of 1970  
14 (30 U.S.C. 1012) is amended by striking “SEC. 13. The”  
15 and inserting the following:

16 **“SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENT-**  
17 **AL OR ROYALTY.**

18 “The”.

19 (n) Section 14 of the Geothermal Steam Act of 1970  
20 (30 U.S.C. 1013) is amended by striking “SEC. 14. Sub-  
21 ject” and inserting the following:

22 **“SEC. 14. SURFACE LAND USE.**

23 “Subject”.

24 (o) Section 15 of the Geothermal Steam Act of 1970  
25 (30 U.S.C. 1014) is amended by striking “SEC. 15. (a)  
26 Geothermal” and inserting the following:

1 **“SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.**

2 “(a) Geothermal”.

3 (p) Section 16 of the Geothermal Steam Act of 1970  
4 (30 U.S.C. 1015) is amended by striking “SEC. 16.  
5 Leases” and inserting the following:

6 **“SEC. 16. REQUIREMENT FOR LESSEES.**

7 “Leases”.

8 (q) Section 17 of the Geothermal Steam Act of 1970  
9 (30 U.S.C. 1016) is amended by striking “SEC. 17. Ad-  
10 ministration” and inserting the following:

11 **“SEC. 17. ADMINISTRATION.**

12 “Administration”.

13 (r) Section 19 of the Geothermal Steam Act of 1970  
14 (30 U.S.C. 1018) is amended by striking “SEC. 19. Upon”  
15 and inserting the following:

16 **“SEC. 19. DATA FROM FEDERAL AGENCIES.**

17 “Upon”.

18 (s) Section 20 of the Geothermal Steam Act of 1970  
19 (30 U.S.C. 1019) is amended by striking “SEC. 20. Sub-  
20 ject” and inserting the following:

21 **“SEC. 20. DISPOSITION OF AMOUNTS RECEIVED FROM**  
22 **SALES, BONUSES, ROYALTIES, AND RENTALS.**

23 “Subject”.

24 (t) Section 21 of the Geothermal Steam Act of 1970  
25 (30 U.S.C. 1020) is amended by striking “SEC. 21.” and

1 all that follows through “(b) Geothermal” and inserting  
2 the following:

3 **“SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVA-**  
4 **TION OF MINERAL RIGHTS.**

5 “Geothermal”.

6 (u) Section 22 of the Geothermal Steam Act of 1970  
7 (30 U.S.C. 1021) is amended by striking “SEC. 22. Noth-  
8 ing” and inserting the following:

9 **“SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.**  
10 **“Nothing”.**

11 (v) Section 23 of the Geothermal Steam Act of 1970  
12 (30 U.S.C. 1022) is amended by striking “SEC. 23. (a)  
13 All” and inserting the following:

14 **“SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.**

15 “(a) All”.

16 (w) Section 24 of the Geothermal Steam Act of 1970  
17 (30 U.S.C. 1023) is amended by striking “SEC. 24. The”  
18 and inserting the following:

19 **“SEC. 24. RULES AND REGULATIONS.**

20 “The”.

21 (x) Section 25 of the Geothermal Steam Act of 1970  
22 (30 U.S.C. 1024) is amended by striking “SEC. 25. As”  
23 and inserting the following:

1 **“SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER**  
2 **CERTAIN OTHER LAWS.**

3 “As”.

4 (y) Section 26 of the Geothermal Steam Act of 1970  
5 is amended by striking “SEC. 26. The” and inserting the  
6 following:

7 **“SEC. 26. AMENDMENT.**

8 “The”.

9 (z) Section 27 of the Geothermal Steam Act of 1970  
10 (30 U.S.C. 1025) is amended by striking “SEC. 27. The”  
11 and inserting the following:

12 **“SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL**  
13 **RIGHTS.**

14 “The”.

15 (aa) Section 28 of the Geothermal Steam Act of 1970  
16 (30 U.S.C. 1026) is amended by striking “SEC. 28. (a)(1)  
17 The” and inserting the following:

18 **“SEC. 28. SIGNIFICANT THERMAL FEATURES.**

19 “(a)(1) The”.

20 (bb) Section 29 of the Geothermal Steam Act of 1970  
21 (30 U.S.C. 1027) is amended by striking “SEC. 29. The”  
22 and inserting the following:

23 **“SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.**

24 “The”.

## **Subtitle E—Hydroelectric**

### **2 SEC. 261. ALTERNATIVE CONDITIONS AND FISHWAYS.**

3 (a) FEDERAL RESERVATIONS.—Section 4(e) of the  
4 Federal Power Act (16 U.S.C. 797(e)) is amended by in-  
5 serting after “adequate protection and utilization of such  
6 reservation.” at the end of the first proviso the following:  
7 “The license applicant and any party to the proceeding  
8 shall be entitled to a determination on the record, after  
9 opportunity for an agency trial-type hearing of no more  
10 than 90 days, on any disputed issues of material fact with  
11 respect to such conditions. All disputed issues of material  
12 fact raised by any party shall be determined in a single  
13 trial-type hearing to be conducted within a time frame es-  
14 tablished by the Commission for each license proceeding.  
15 Within 90 days of the date of enactment of this Act, the  
16 Secretaries of the Interior, Commerce, and Agriculture  
17 shall establish jointly, by rule, the procedures for such ex-  
18 pedited trial-type hearing, including the opportunity to un-  
19 dertake discovery and cross-examine witnesses, in con-  
20 sultation with the Federal Energy Regulatory Commis-  
21 sion.”.

22 (b) FISHWAYS.—Section 18 of the Federal Power Act  
23 (16 U.S.C. 811) is amended by inserting after “and such  
24 fishways as may be prescribed by the Secretary of Com-  
25 merce.” the following: “The license applicant and any

1 party to the proceeding shall be entitled to a determination  
2 on the record, after opportunity for an agency trial-type  
3 hearing of no more than 90 days, on any disputed issues  
4 of material fact with respect to such fishways. All disputed  
5 issues of material fact raised by any party shall be deter-  
6 mined in a single trial-type hearing to be conducted within  
7 a time frame established by the Commission for each li-  
8 cense proceeding. Within 90 days of the date of enactment  
9 of this Act, the Secretaries of the Interior, Commerce, and  
10 Agriculture shall establish jointly, by rule, the procedures  
11 for such expedited trial-type hearing, including the oppor-  
12 tunity to undertake discovery and cross-examine wit-  
13 nesses, in consultation with the Federal Energy Regu-  
14 latory Commission.”.

15 (c) ALTERNATIVE CONDITIONS AND PRESCRIP-  
16 TIONS.—Part I of the Federal Power Act (16 U.S.C. 791a  
17 et seq.) is amended by adding the following new section  
18 at the end thereof:

19 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

20 “(a) ALTERNATIVE CONDITIONS.—(1) Whenever any  
21 person applies for a license for any project works within  
22 any reservation of the United States, and the Secretary  
23 of the department under whose supervision such reserva-  
24 tion falls (referred to in this subsection as the ‘Secretary’)  
25 deems a condition to such license to be necessary under

1 the first proviso of section 4(e), the license applicant or  
2 any other party to the license proceeding may propose an  
3 alternative condition.

4 “(2) Notwithstanding the first proviso of section 4(e),  
5 the Secretary shall accept the proposed alternative condi-  
6 tion referred to in paragraph (1), and the Commission  
7 shall include in the license such alternative condition, if  
8 the Secretary determines, based on substantial evidence  
9 provided by the license applicant, any other party to the  
10 proceeding, or otherwise available to the Secretary, that  
11 such alternative condition—

12 “(A) provides for the adequate protection and  
13 utilization of the reservation; and

14 “(B) the Secretary concurs with the license ap-  
15 plicant’s judgment that the alternative condition will  
16 either—

17 “(i) cost significantly less to implement; or

18 “(ii) result in improved operation of the  
19 project works for electricity production, as com-  
20 pared to the condition initially deemed nec-  
21 essary by the Secretary.

22 “(3) The Secretary concerned shall submit into the  
23 public record of the Commission proceeding with any con-  
24 dition under section 4(e) or alternative condition it accepts  
25 under this section, a written statement explaining the



1 basis for such condition, and reason for not accepting any  
2 alternative condition under this section. The written state-  
3 ment must demonstrate that the Secretary gave equal con-  
4 sideration to the effects of the condition adopted and alter-  
5 natives not accepted on energy supply, distribution, cost,  
6 and use; flood control; navigation; water supply; and air  
7 quality (in addition to the preservation of other aspects  
8 of environmental quality); based on such information as  
9 may be available to the Secretary, including information  
10 voluntarily provided in a timely manner by the applicant  
11 and others. The Secretary shall also submit, together with  
12 the aforementioned written statement, all studies, data,  
13 and other factual information available to the Secretary  
14 and relevant to the Secretary's decision.

15       “(4) If the Secretary does not accept an applicant's  
16 alternative condition under this section, and the Commis-  
17 sion finds that the Secretary's condition would be incon-  
18 sistent with the purposes of this part, or other applicable  
19 law, the Commission may refer the dispute to the Commis-  
20 sion's Dispute Resolution Service. The Dispute Resolution  
21 Service shall consult with the Secretary and the Commis-  
22 sion and issue a non-binding advisory within 90 days. The  
23 Secretary may accept the Dispute Resolution Service advi-  
24 sory unless the Secretary finds that the recommendation  
25 will not adequately protect the reservation. The Secretary

1 shall submit the advisory and the Secretary's final written  
2 determination into the record of the Commission's pro-  
3 ceeding.

4       “(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever  
5 the Secretary of the Interior or the Secretary of Commerce  
6 prescribes a fishway under section 18, the license appli-  
7 cant or any other party to the license proceeding may pro-  
8 pose an alternative to such prescription to construct,  
9 maintain, or operate a fishway.

10       “(2) Notwithstanding section 18, the Secretary of the  
11 Interior or the Secretary of Commerce, as appropriate,  
12 shall accept and prescribe, and the Commission shall re-  
13 quire, the proposed alternative referred to in paragraph  
14 (1), if the Secretary of the appropriate department deter-  
15 mines, based on substantial evidence provided by the li-  
16 cense applicant, any other party to the proceeding, or oth-  
17 erwise available to the Secretary, that such alternative—

18               “(A) will be no less protective than the fishway  
19 initially prescribed by the Secretary; and

20               “(B) the Secretary concurs with the license ap-  
21 plicant's judgment that the alternative prescription  
22 will either—

23                       “(i) cost significantly less to implement; or

24                       “(ii) result in improved operation of the  
25 project works for electricity production, as com-

1           pared to the fishway initially deemed necessary  
2           by the Secretary.

3           “(3) The Secretary concerned shall submit into the  
4 public record of the Commission proceeding with any pre-  
5 scription under section 18 or alternative prescription it ac-  
6 cepts under this section, a written statement explaining  
7 the basis for such prescription, and reason for not accept-  
8 ing any alternative prescription under this section. The  
9 written statement must demonstrate that the Secretary  
10 gave equal consideration to the effects of the prescription  
11 adopted and alternatives not accepted on energy supply,  
12 distribution, cost, and use; flood control; navigation; water  
13 supply; and air quality (in addition to the preservation of  
14 other aspects of environmental quality); based on such in-  
15 formation as may be available to the Secretary, including  
16 information voluntarily provided in a timely manner by the  
17 applicant and others. The Secretary shall also submit, to-  
18 gether with the aforementioned written statement, all  
19 studies, data, and other factual information available to  
20 the Secretary and relevant to the Secretary’s decision.

21           “(4) If the Secretary concerned does not accept an  
22 applicant’s alternative prescription under this section, and  
23 the Commission finds that the Secretary’s prescription  
24 would be inconsistent with the purposes of this part, or  
25 other applicable law, the Commission may refer the dis-

pute to the Commission’s Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary’s final written determination into the record of the Commission’s proceeding.”.

**SEC. 262. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.**

Section 32 of the Federal Power Act (16 U.S.C. 823c) is amended—

(1) in subsection (a)(3)(C), by inserting “except as provided in subsection (j),” before “conditions”; and

(2) by adding at the end the following:

“(j) FISH AND WILDLIFE.—If the State of Alaska determines that a recommendation under subsection (a)(3)(C) is inconsistent with paragraphs (1) and (2) of subsection (a), the State of Alaska may decline to adopt all or part of the recommendations in accordance with the procedures established under section 10(j)(2).”.

1 **SEC. 263. FLINT CREEK HYDROELECTRIC PROJECT.**

2 (a) EXTENSION OF TIME.—Notwithstanding the time  
3 period specified in section 5 of the Federal Power Act (16  
4 U.S.C. 798) that would otherwise apply to the Federal En-  
5 ergy Regulatory Commission (referred to in this section  
6 as the “Commission”) project numbered 12107, the Com-  
7 mission shall—

8 (1) if the preliminary permit is in effect on the  
9 date of enactment of this Act, extend the prelimi-  
10 nary permit for a period of 3 years beginning on the  
11 date on which the preliminary permit expires; or

12 (2) if the preliminary permit expired before the  
13 date of enactment of this Act, on request of the per-  
14 mittee, reinstate the preliminary permit for an addi-  
15 tional 3-year period beginning on the date of enact-  
16 ment of this Act.

17 (b) LIMITATION ON CERTAIN FEES.—Notwith-  
18 standing section 10(e)(1) of the Federal Power Act (16  
19 U.S.C. 803(e)(1)) or any other provision of Federal law  
20 providing for the payment to the United States of charges  
21 for the use of Federal land for the purposes of operating  
22 and maintaining a hydroelectric development licensed by  
23 the Commission, any political subdivision of the State of  
24 Montana that holds a Commission license for the Commis-  
25 sion project numbered 12107 in Granite and Deer Lodge  
26 Counties, Montana, shall be required to pay to the United

1 States for the use of that land for each year during which  
 2 the political subdivision continues to hold the license for  
 3 the project, the lesser of—

4 (1) \$25,000; or

5 (2) such annual charge as the Commission or  
 6 any other department or agency of the Federal Gov-  
 7 ernment may assess.

## 8 **TITLE III—OIL AND GAS**

### 9 **Subtitle A—Petroleum Reserve and**

### 10 **Home Heating Oil**

#### 11 **SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRA-**

#### 12 **TEGIC PETROLEUM RESERVE AND OTHER**

#### 13 **ENERGY PROGRAMS.**

14 (a) AMENDMENT TO TITLE I OF THE ENERGY POL-  
 15 ICY AND CONSERVATION ACT.—Title I of the Energy Pol-  
 16 icy and Conservation Act (42 U.S.C. 6212 et seq.) is  
 17 amended—

18 (1) by striking section 166 (42 U.S.C. 6246)  
 19 and inserting the following:

20 “AUTHORIZATION OF APPROPRIATIONS

21 “SEC. 166. There are authorized to be appropriated  
 22 to the Secretary such sums as are necessary to carry out  
 23 this part and part D, to remain available until expended.”;

24 (2) by striking section 186 (42 U.S.C. 6250e);  
 25 and

26 (3) by striking part E (42 U.S.C. 6251).

1 (b) AMENDMENT TO TITLE II OF THE ENERGY POL-  
 2 ICY AND CONSERVATION ACT.—Title II of the Energy  
 3 Policy and Conservation Act (42 U.S.C. 6271 et seq.) is  
 4 amended—

5 (1) by inserting before section 273 (42 U.S.C.  
 6 6283) the following:

7 “PART C—SUMMER FILL AND FUEL BUDGETING  
 8 PROGRAMS”;

9 (2) by striking section 273(e) (42 U.S.C.  
 10 6283(e)); and

11 (3) by striking part D (42 U.S.C. 6285).

12 (c) TECHNICAL AMENDMENTS.—The table of con-  
 13 tents for the Energy Policy and Conservation Act is  
 14 amended—

15 (1) by inserting after the items relating to part  
 16 C of title I the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

“Sec. 184. Northeast Home Heating Oil Reserve Account.

“Sec. 185. Exemptions.”;

17 (2) by amending the items relating to part C of  
 18 title II to read as follows:

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”;

19 and

1           (3) by striking the items relating to part D of  
2       title II.

3       (d) AMENDMENT TO THE ENERGY POLICY AND CON-  
4       SERVATION ACT.—Section 183(b)(1) of the Energy Policy  
5       and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended  
6       by striking “by more” and all that follows through “mid-  
7       October through March” and inserting “by more than 60  
8       percent over its 5-year rolling average for the months of  
9       mid-October through March (considered as a heating sea-  
10      son average)”.

11      (e) FILL STRATEGIC PETROLEUM RESERVE TO CA-  
12      PACITY.—The Secretary shall, as expeditiously as prac-  
13      ticable, without incurring excessive cost or appreciably af-  
14      fecting the price of gasoline or heating oil to consumers,  
15      acquire petroleum in quantities sufficient to fill the Stra-  
16      tegic Petroleum Reserve to the 1,000,000,000-barrel ca-  
17      pacity authorized under section 154(a) of the Energy Pol-  
18      icy and Conservation Act (42 U.S.C. 6234(a)), in accord-  
19      ance with the sections 159 and 160 of that Act (42 U.S.C.  
20      6239, 6240).

21   **SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.**

22      Section 713 of the Energy Act of 2000 (Public Law  
23      106–469; 42 U.S.C. 6201 note) is amended by striking  
24      “4” and inserting “9”.



## 1   **Subtitle B—Production Incentives**

### 2   **SEC. 311. DEFINITION OF SECRETARY.**

3       In this subtitle, the term “Secretary” means the Sec-  
4   retary of the Interior.

### 5   **SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.**

6       (a) **APPLICABILITY OF SECTION.**—Notwithstanding  
7   any other provision of law, this section applies to all roy-  
8   alty in-kind accepted by the Secretary on or after the date  
9   of enactment of this Act under any Federal oil or gas lease  
10   or permit under—

11           (1) section 36 of the Mineral Leasing Act (30  
12   U.S.C. 192);

13           (2) section 27 of the Outer Continental Shelf  
14   Lands Act (43 U.S.C. 1353); or

15           (3) any other Federal law governing leasing of  
16   Federal land for oil and gas development.

17       (b) **TERMS AND CONDITIONS.**—All royalty accruing  
18   to the United States shall, on the demand of the Sec-  
19   retary, be paid in oil or gas. If the Secretary makes such  
20   a demand, the following provisions apply to the payment:

21           (1) **SATISFACTION OF ROYALTY OBLIGATION.**—

22       Delivery by, or on behalf of, the lessee of the royalty  
23       amount and quality due under the lease satisfies  
24       royalty obligation of the lessee for the amount deliv-  
25       ered, except that transportation and processing re-

1 imbursements paid to, or deductions claimed by, the  
2 lessee shall be subject to review and audit.

3 (2) MARKETABLE CONDITION.—

4 (A) DEFINITION OF MARKETABLE CONDI-  
5 TION.—In this paragraph, the term “in market-  
6 able condition” means sufficiently free from im-  
7 purities and otherwise in a condition that the  
8 royalty production will be accepted by a pur-  
9 chaser under a sales contract typical of the field  
10 or area in which the royalty production was  
11 produced.

12 (B) REQUIREMENT.—Royalty production  
13 shall be placed in marketable condition by the  
14 lessee at no cost to the United States.

15 (3) DISPOSITION BY THE SECRETARY.—The  
16 Secretary may—

17 (A) sell or otherwise dispose of any royalty  
18 production taken in-kind (other than oil or gas  
19 transferred under section 27(a)(3) of the Outer  
20 Continental Shelf Lands Act (43 U.S.C.  
21 1353(a)(3)) for not less than the market price;  
22 and

23 (B) transport or process (or both) any roy-  
24 alty production taken in-kind.

1           (4) RETENTION BY THE SECRETARY.—The Sec-  
2       retary may, notwithstanding section 3302 of title 31,  
3       United States Code, retain and use a portion of the  
4       revenues from the sale of oil and gas taken in-kind  
5       that otherwise would be deposited to miscellaneous  
6       receipts, without regard to fiscal year limitation, or  
7       may use oil or gas received as royalty taken in-kind  
8       (referred to in this paragraph as “royalty produc-  
9       tion”) to pay the cost of—

10           (A) transporting the royalty production;

11           (B) processing the royalty production;

12           (C) disposing of the royalty production; or

13           (D) any combination of transporting, proc-  
14       essing, and disposing of the royalty production.

15       (5) LIMITATION.—

16           (A) IN GENERAL.—Except as provided in  
17       subparagraph (B), the Secretary may not use  
18       revenues from the sale of oil and gas taken in-  
19       kind to pay for personnel, travel, or other ad-  
20       ministrative costs of the Federal Government.

21           (B) EXCEPTION.—Notwithstanding sub-  
22       paragraph (A), the Secretary may use a portion  
23       of the revenues from royalty in-kind sales, with-  
24       out fiscal year limitation, to pay salaries and

1           other administrative costs directly related to the  
2           royalty in-kind program.

3           (c) REIMBURSEMENT OF COST.—If a lessee, pursu-  
4   ant to an agreement with the United States or as provided  
5   in the lease, processes the royalty gas or delivers the roy-  
6   alty oil or gas at a point not on or adjacent to the lease  
7   area, the Secretary shall—

8           (1) reimburse the lessee for the reasonable costs  
9           of transportation (not including gathering) from the  
10          lease to the point of delivery or for processing costs;  
11          or

12          (2) allow the lessee to deduct the transportation  
13          or processing costs in reporting and paying royalties  
14          in-value for other Federal oil and gas leases.

15          (d) BENEFIT TO THE UNITED STATES REQUIRED.—  
16   The Secretary may receive oil or gas royalties in-kind only  
17   if the Secretary determines that receiving royalties in-kind  
18   provides benefits to the United States that are greater  
19   than or equal to the benefits that are likely to have been  
20   received had royalties been taken in-value.

21          (e) REPORTS.—

22           (1) IN GENERAL.—Not later than September  
23          30, 2006, the Secretary shall submit to Congress a  
24          report that addresses—

1 (A) actions taken to develop businesses  
2 processes and automated systems to fully sup-  
3 port the royalty-in-kind capability to be used in  
4 tandem with the royalty-in-value approach in  
5 managing Federal oil and gas revenue; and

6 (B) future royalty-in-kind businesses oper-  
7 ation plans and objectives.

8 (2) REPORTS ON OIL OR GAS ROYALTIES TAKEN  
9 IN-KIND.—For each of fiscal years 2006 through  
10 2015 in which the United States takes oil or gas  
11 royalties in-kind from production in any State or  
12 from the outer Continental Shelf, excluding royalties  
13 taken in-kind and sold to refineries under subsection  
14 (h), the Secretary shall submit to Congress a report  
15 that describes—

16 (A) the 1 or more methodologies used by  
17 the Secretary to determine compliance with sub-  
18 section (d), including the performance standard  
19 for comparing amounts received by the United  
20 States derived from royalties in-kind to  
21 amounts likely to have been received had royal-  
22 ties been taken in-value;

23 (B) an explanation of the evaluation that  
24 led the Secretary to take royalties in-kind from

1 a lease or group of leases, including the ex-  
2 pected revenue effect of taking royalties in-kind;

3 (C) actual amounts received by the United  
4 States derived from taking royalties in-kind and  
5 costs and savings incurred by the United States  
6 associated with taking royalties in-kind, includ-  
7 ing administrative savings and any new or in-  
8 creased administrative costs; and

9 (D) an evaluation of other relevant public  
10 benefits or detriments associated with taking  
11 royalties in-kind.

12 (f) DEDUCTION OF EXPENSES.—

13 (1) IN GENERAL.—Before making payments  
14 under section 35 of the Mineral Leasing Act (30  
15 U.S.C. 191) or section 8(g) of the Outer Continental  
16 Shelf Lands Act (43 U.S.C. 1337(g)) of revenues  
17 derived from the sale of royalty production taken in-  
18 kind from a lease, the Secretary shall deduct  
19 amounts paid or deducted under subsections (b)(4)  
20 and (c) and deposit the amount of the deductions in  
21 the miscellaneous receipts of the Treasury.

22 (2) ACCOUNTING FOR DEDUCTIONS.—If the  
23 Secretary allows the lessee to deduct transportation  
24 or processing costs under subsection (c), the Sec-  
25 retary may not reduce any payments to recipients of

1 revenues derived from any other Federal oil and gas  
2 lease as a consequence of that deduction.

3 (g) CONSULTATION WITH STATES.—The Secretary—

4 (1) shall consult with a State before conducting  
5 a royalty in-kind program under this subtitle within  
6 the State;

7 (2) may delegate management of any portion of  
8 the Federal royalty in-kind program to the State ex-  
9 cept as otherwise prohibited by Federal law; and

10 (3) shall consult annually with any State from  
11 which Federal oil or gas royalty is being taken in-  
12 kind to ensure, to the maximum extent practicable,  
13 that the royalty in-kind program provides revenues  
14 to the State greater than or equal to the revenues  
15 likely to have been received had royalties been taken  
16 in-value.

17 (h) SMALL REFINERIES.—

18 (1) PREFERENCE.—If the Secretary finds that  
19 sufficient supplies of crude oil are not available in  
20 the open market to refineries that do not have their  
21 own source of supply for crude oil, the Secretary  
22 may grant preference to those refineries in the sale  
23 of any royalty oil accruing or reserved to the United  
24 States under Federal oil and gas leases issued under  
25 any mineral leasing law, for processing or use in

1       those refineries at private sale at not less than the  
2       market price.

3               (2) PRORATION AMONG REFINERIES IN PRO-  
4       DUCTION AREA.—In disposing of oil under this sub-  
5       section, the Secretary may, at the discretion of the  
6       Secretary, prorate the oil among refineries described  
7       in paragraph (1) in the area in which the oil is pro-  
8       duced.

9       (i) DISPOSITION TO FEDERAL AGENCIES.—

10              (1) ONSHORE ROYALTY.—Any royalty oil or gas  
11       taken by the Secretary in-kind from onshore oil and  
12       gas leases may be sold at not less than the market  
13       price to any Federal agency.

14              (2) OFFSHORE ROYALTY.—Any royalty oil or  
15       gas taken in-kind from a Federal oil or gas lease on  
16       the outer Continental Shelf may be disposed of only  
17       under section 27 of the Outer Continental Shelf  
18       Lands Act (43 U.S.C. 1353).

19       (j) FEDERAL LOW-INCOME ENERGY ASSISTANCE  
20       PROGRAMS.—

21              (1) PREFERENCE.—In disposing of royalty oil  
22       or gas taken in-kind under this section, the Sec-  
23       retary may grant a preference to any person, includ-  
24       ing any Federal or State agency, for the purpose of



1 providing additional resources to any Federal low-in-  
2 come energy assistance program.

3 (2) REPORT.—Not later than 3 years after the  
4 date of enactment of this Act, the Secretary shall  
5 submit a report to Congress—

6 (A) assessing the effectiveness of granting  
7 preferences specified in paragraph (1); and

8 (B) providing a specific recommendation  
9 on the continuation of authority to grant pref-  
10 erences.

11 **SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

12 (a) DEFINITION OF MARGINAL PROPERTY.—Until  
13 such time as the Secretary issues regulations under sub-  
14 section (e) that prescribe a different definition, in this sec-  
15 tion, the term “marginal property” means an onshore  
16 unit, communitization agreement, or lease not within a  
17 unit or communitization agreement, that produces on av-  
18 erage the combined equivalent of less than 15 barrels of  
19 oil per well per day or 90,000,000 British thermal units  
20 of gas per well per day calculated based on the average  
21 over the 3 most recent production months, including only  
22 wells that produce on more than half of the days during  
23 those 3 production months.

24 (b) CONDITIONS FOR REDUCTION OF ROYALTY  
25 RATE.—Until such time as the Secretary issues regula-

1 tions under subsection (e) that prescribe different stand-  
 2 ards or requirements, the Secretary shall reduce the roy-  
 3 alty rate on—

4 (1) oil production from marginal properties as  
 5 prescribed in subsection (c) if the spot price of West  
 6 Texas Intermediate crude oil at Cushing, Oklahoma,  
 7 is, on average, less than \$15 per barrel (adjusted in  
 8 accordance with the Consumer Price Index for all-  
 9 urban consumers, United States city average, as  
 10 published by the Bureau of Labor Statistics) for 90  
 11 consecutive trading days; and

12 (2) gas production from marginal properties as  
 13 prescribed in subsection (c) if the spot price of nat-  
 14 ural gas delivered at Henry Hub, Louisiana, is, on  
 15 average, less than \$2.00 per million British thermal  
 16 units (adjusted in accordance with the Consumer  
 17 Price Index for all-urban consumers, United States  
 18 city average, as published by the Bureau of Labor  
 19 Statistics) for 90 consecutive trading days.

20 (c) REDUCED ROYALTY RATE.—

21 (1) IN GENERAL.—When a marginal property  
 22 meets the conditions specified in subsection (b), the  
 23 royalty rate shall be the lesser of—

24 (A) 5 percent; or

1 (B) the applicable rate under any other  
 2 statutory or regulatory royalty relief provision  
 3 that applies to the affected production.

4 (2) PERIOD OF EFFECTIVENESS.—The reduced  
 5 royalty rate under this subsection shall be effective  
 6 beginning on the first day of the production month  
 7 following the date on which the applicable condition  
 8 specified in subsection (b) is met.

9 (d) TERMINATION OF REDUCED ROYALTY RATE.—  
 10 A royalty rate prescribed in subsection (c)(1)(A) shall ter-  
 11minate—

12 (1) with respect to oil production from a mar-  
 13 ginal property, on the first day of the production  
 14 month following the date on which—

15 (A) the spot price of West Texas Inter-  
 16 mediate crude oil at Cushing, Oklahoma, on av-  
 17 erage, exceeds \$15 per barrel (adjusted in ac-  
 18 cordance with the Consumer Price Index for all-  
 19 urban consumers, United States city average,  
 20 as published by the Bureau of Labor Statistics)  
 21 for 90 consecutive trading days; or

22 (B) the property no longer qualifies as a  
 23 marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds \$2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) REGULATIONS PRESCRIBING DIFFERENT RELIEF.—

(1) DISCRETIONARY REGULATIONS.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) ROYALTY RELIEF FOR OFFSHORE WELLS.—With respect to royalty relief for oil or gas produced from wells located on the outer Continental Shelf, the Secretary shall use authority available to the

1 Secretary as of the day before the date of enactment  
2 of this Act—

3 (A) to accept and consider petitions from  
4 persons seeking, and providing justification for,  
5 royalty relief for 1 or more of those wells; and

6 (B) not later than 90 days after the date  
7 of receipt of a petition, on a case-by-case  
8 basis—

9 (i) approve the petition and provide  
10 royalty relief or a royalty reduction for oil  
11 or gas produced from the wells covered by  
12 the petition; or

13 (ii) disapprove the petition.

14 (3) CONSIDERATIONS.—In issuing regulations  
15 under this subsection, the Secretary may consider—

16 (A) oil and gas prices and market trends;

17 (B) production costs;

18 (C) abandonment costs;

19 (D) Federal and State tax provisions and  
20 the effects of those provisions on production ec-  
21 nomics;

22 (E) other royalty relief programs;

23 (F) regional differences in average well-  
24 head prices;

25 (G) national energy security issues; and

1 (H) other relevant matters, as determined  
2 by the Secretary.

3 (f) SAVINGS PROVISION.—Nothing in this section  
4 prevents a lessee from receiving royalty relief or a royalty  
5 reduction pursuant to any other law (including a regula-  
6 tion) that provides more relief than the amounts provided  
7 by this section.

8 **SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION**  
9 **FROM DEEP WELLS IN THE SHALLOW WA-**  
10 **TERS OF THE GULF OF MEXICO.**

11 (a) DEFINITIONS.—In this section:

12 (1) LEASE ISSUED IN SHALLOW WATERS.—The  
13 term “lease issued in shallow waters” means—

14 (A) a lease entirely in water less than 200  
15 meters deep; or

16 (B) a lease—

17 (i) partially in water less than 200  
18 meters deep; and

19 (ii) to which no royalty relief provi-  
20 sions in law or lease terms apply.

21 (2) SIDETRACK.—

22 (A) IN GENERAL.—The term “sidetrack”  
23 means a well resulting from drilling an addi-  
24 tional hole to a new objective bottom-hole loca-  
25 tion by leaving a previously drilled hole.

1 (B) INCLUSION.—The term “sidetrack” in-  
2 cludes—

3 (i) drilling a well from a platform slot  
4 reclaimed from a previously drilled well;

5 (ii) re-entering and deepening a pre-  
6 viously drilled well; and

7 (iii) a bypass from a sidetrack, includ-  
8 ing drilling around material blocking a hole  
9 or drilling to straighten a crooked hole.

10 (3) ULTRA DEEP WELL.—The term “ultra deep  
11 well” means a well drilled with a perforated interval,  
12 the top of which is at least 20,000 feet true vertical  
13 depth below the datum at mean sea level.

14 (b) REGULATIONS.—

15 (1) IN GENERAL.—Not later than 180 days  
16 after the date of enactment of this Act, in addition  
17 to any other regulations that may provide royalty in-  
18 centives for natural gas produced from deep wells on  
19 oil and gas leases issued pursuant to, or regulated  
20 under, the Outer Continental Shelf Lands Act (43  
21 U.S.C. 1331 et seq.), the Secretary shall issue regu-  
22 lations granting royalty relief suspension volumes of  
23 not less than 35,000,000,000 cubic feet with respect  
24 to the production of natural gas from ultra deep  
25 wells on leases issued in shallow waters located in

1 the Gulf of Mexico wholly west of 87°, 30'' West lon-  
2 gitude that are issued before the date that is 180  
3 days after the date of enactment of this Act.

4 (2) SUSPENSION VOLUMES.—The Secretary  
5 may grant suspension volumes of less than  
6 35,000,000,000 cubic feet in any case in which—

7 (A) the ultra deep well is a sidetrack; or

8 (B) the lease has previously produced from  
9 wells with a perforated interval the top of which  
10 is at least 15,000 feet true vertical depth below  
11 the datum at mean sea level.

12 (c) LIMITATION.—The Secretary shall not grant roy-  
13 alty incentives under this section if the average annual  
14 natural gas price on the New York Mercantile Exchange  
15 exceeds a threshold price specified, and adjusted for infla-  
16 tion, by the Secretary.

17 (d) APPLICABILITY.—

18 (1) IN GENERAL.—Royalty incentives under  
19 this subsection apply only to natural gas production  
20 from ultra deep wells that are drilled after the date  
21 of enactment of this Act.

22 (2) REVIEW AND SUSPENSION.—Not earlier  
23 than 10 years after the date of enactment of this  
24 Act, the Secretary may—



1 (A) review the relief granted under this  
2 section; and

3 (B) by regulation, modify or suspend the  
4 relief.

5 **SEC. 315. ROYALTY RELIEF FOR DEEP WATER PRODUC-**  
6 **TION.**

7 (a) IN GENERAL.—Subject to subsections (b) and (c),  
8 for each tract located in water depths of greater than 400  
9 meters in the Western and Central Planning Area of the  
10 Gulf of Mexico (including the portion of the Eastern Plan-  
11 ning Area of the Gulf of Mexico encompassing whole lease  
12 blocks lying west of 87 degrees, 30 minutes West lon-  
13 gitude), any oil or gas lease sale under the Outer Conti-  
14 nental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring  
15 during the 5-year period beginning on the date of enact-  
16 ment of this Act shall use the bidding system authorized  
17 under section 8(a)(1)(H) of the Outer Continental Shelf  
18 Lands Act (43 U.S.C. 1337(a)(1)(H)).

19 (b) SUSPENSION OF ROYALTIES.—The suspension of  
20 royalties under subsection (a) shall be established at a vol-  
21 ume of not less than—

22 (1) 5,000,000 barrels of oil equivalent for each  
23 lease in water depths of 400 meters or more but less  
24 than 800 meters;

1           (2) 9,000,000 barrels of oil equivalent for each  
 2           lease in water depths of 800 meters or more but not  
 3           greater than 1,600 meters; and

4           (3) 12,000,000 barrels of oil equivalent for each  
 5           lease in water depths greater than 1,600 meters.

6           (c) LIMITATION.—The Secretary may place limita-  
 7           tions on royalty relief granted under this section based on  
 8           market price.

9           **SEC. 316. ALASKA OFFSHORE ROYALTY SUSPENSION.**

10          Section 8(a)(3)(B) of the Outer Continental Shelf  
 11          Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by in-  
 12          serting “and in the Planning Areas offshore Alaska,” after  
 13          “West longitude,”.

14          **SEC. 317. OIL AND GAS LEASING IN THE NATIONAL PETRO-**  
 15                                   **LEUM RESERVE IN ALASKA.**

16          (a) TRANSFER OF AUTHORITY.—

17               (1) REDESIGNATION.—The Naval Petroleum  
 18               Reserves Production Act of 1976 (42 U.S.C. 6501  
 19               et seq.) is amended by redesignating section 107 (42  
 20               U.S.C. 6507) as section 108.

21               (2) TRANSFER.—The matter under the heading  
 22               “EXPLORATION OF NATIONAL PETROLEUM RESERVE  
 23               IN ALASKA” under the heading “ENERGY AND MIN-  
 24               ERALS” of title I of Public Law 96–514 (42 U.S.C.  
 25               6508) is—

1 (A) transferred to the Naval Petroleum  
 2 Reserves Production Act of 1976 (42 U.S.C.  
 3 6501 et seq.);

4 (B) redesignated as section 107 of that  
 5 Act; and

6 (C) moved so as to appear after section  
 7 106 of that Act (42 U.S.C. 6506).

8 (b) COMPETITIVE LEASING.—Section 107 of the  
 9 Naval Petroleum Reserves Production Act of 1976 (as  
 10 amended by subsection (a)(2)) is amended—

11 (1) by striking the heading and all that follows  
 12 through “*Provided, That* (1) activities” and insert-  
 13 ing the following:

14 **“SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.**

15 “(a) IN GENERAL.—The Secretary shall conduct an  
 16 expeditious program of competitive leasing of oil and gas  
 17 in the Reserve in accordance with this Act.

18 “(b) MITIGATION OF ADVERSE EFFECTS.—

19 “(1) IN GENERAL.—Activities”;

20 (2) in subsection (b)(1) (as designated by para-  
 21 graph (1)), by striking “to mitigate” and inserting  
 22 “to prevent to the extent practicable, and to miti-  
 23 gate,”;

24 (3) by striking “Alaska (the Reserve); (2) the”  
 25 and inserting “Alaska.

1           “(2) CERTAIN RESOURCES AND FACILITIES.—

2           In carrying out the leasing program under this sec-  
3           tion, the Secretary shall minimize, to the extent  
4           practicable, the impact to surface resources and con-  
5           solidate facilities.

6           “(c) LAND USE PLANNING; BLM WILDERNESS  
7           STUDY.—The”;

8           (4) by striking “Reserve; (3) the” and inserting  
9           “Reserve.

10          “(d) FIRST LEASE SALE.—The”;

11          (5) by striking “4332); (4) the” and inserting  
12          “4321 et seq.).

13          “(e) WITHDRAWALS.—The”;

14          (6) by striking “herein; (5) bidding” and insert-  
15          ing “under this section.

16          “(f) BIDDING SYSTEMS.—Bidding”;

17          (7) by striking “629); (6) lease” and inserting  
18          “629).

19          “(g) GEOLOGICAL STRUCTURES.—Lease”;

20          (8) by striking “structures; (7) the” and insert-  
21          ing “structures.

22          “(h) SIZE OF LEASE TRACTS.—The”;

23          (9) by striking “Secretary; (8)” and all that fol-  
24          lows through “Drilling, production,” and inserting  
25          “Secretary.

1       “(i) TERMS.—

2               “(1) IN GENERAL.—Each lease shall be issued  
3       for an initial period of not more than 10 years, and  
4       shall be extended for so long thereafter as oil or gas  
5       is produced from the lease in paying quantities or  
6       drilling or reworking operations, as approved by the  
7       Secretary, are conducted on the leased land.

8               “(2) TERMINATION.—No lease issued under  
9       this section covering lands capable of producing oil  
10      or gas in paying quantities shall expire because the  
11      lessee fails to produce the same unless the lessee is  
12      allowed a reasonable time, which shall be not less  
13      than 60 days after notice by registered or certified  
14      mail, within which to place the lands in producing  
15      status or unless, after such status is established,  
16      production is discontinued on the leased premises  
17      without permission granted by the Secretary under  
18      the provisions of this Act.

19              “(3) RENEWAL OF LEASES WITHOUT DISCOV-  
20      ERIES.—At the end of the primary term of a lease,  
21      the Secretary shall renew for one additional 10-year  
22      term a lease that does not meet the requirements of  
23      paragraph (1) if the lessee submits to the Secretary  
24      an application for renewal not later than 60 days be-  
25      fore the expiration of the primary lease, pays the

1 Secretary a renewal fee of \$100 per acre of leased  
2 land, and—

3 “(A) the lessee provides evidence, and the  
4 Secretary agrees that, the lessee has diligently  
5 pursued exploration that warrants continuation  
6 with the intent of continued exploration or fu-  
7 ture potential development of the leased land;  
8 or

9 “(B) all or part of the lease

10 “(i) is part of a unit agreement cov-  
11 ering a lease described in subparagraph  
12 (A); and

13 “(ii) has not been previously con-  
14 tracted out of the unit.

15 “(4) APPLICABILITY.—This subsection applies  
16 to a lease that is in effect on or after the date of  
17 enactment of the Energy Policy Act of 2005.

18 “(j) UNIT AGREEMENTS.—

19 “(1) IN GENERAL.—For the purpose of con-  
20 servation of the natural resources of all or part of  
21 any oil or gas pool, field, reservoir, or like area, les-  
22 sees (including representatives) of the pool, field,  
23 reservoir, or like area may unite with each other, or  
24 jointly or separately with others, in collectively  
25 adopting and operating under a unit agreement for

1 all or part of the pool, field, reservoir, or like area  
2 (whether or not any other part of the oil or gas pool,  
3 field, reservoir, or like area is already subject to any  
4 cooperative or unit plan of development or oper-  
5 ation), if the Secretary determines the action to be  
6 necessary or advisable in the public interest. In de-  
7 termining the public interest, the Secretary shall,  
8 among other things, examine the extent to which the  
9 unit agreement will minimize the impact to surface  
10 resources of the leases and will facilitate consolida-  
11 tion of facilities.

12 “(2) CONSULTATION.—In making a determina-  
13 tion under paragraph (1), the Secretary shall consult  
14 with the State of Alaska or a Regional Corporation  
15 (as defined in section 3 of the Alaska Native Claims  
16 Settlement Act (43 U.S.C. 1602)) with respect to  
17 the creation or expansion of units that include acre-  
18 age in which the State of Alaska or the Regional  
19 Corporation has an interest in the mineral estate.

20 “(3) PRODUCTION ALLOCATION METHODOLOGY.—(A) The Secretary may use a production  
21 allocation methodology for each participating area  
22 within a unit that includes solely Federal land in the  
23 Reserve.  
24

1           “(B) The Secretary shall use a production allo-  
 2           cation methodology for each participating area with-  
 3           in a unit that includes Federal land in the Reserve  
 4           and non-Federal land based on the characteristics of  
 5           each specific oil or gas pool, field, reservoir, or like  
 6           area to take into account reservoir heterogeneity and  
 7           area variation in reservoir producibility across di-  
 8           verse leasehold interests. The implementation of the  
 9           foregoing production allocation methodology shall be  
 10          controlled by agreement among the affected lessors  
 11          and lessees.

12           “(4) BENEFIT OF OPERATIONS.—Drilling, pro-  
 13          duction,”;

14           (10) by striking “When separate” and inserting  
 15          the following:

16           “(5) POOLING.—If separate”;

17           (11) by inserting “(in consultation with the  
 18          owners of the other land)” after “determined by the  
 19          Secretary of the Interior”;

20           (12) by striking “thereto; (10) to” and all that  
 21          follows through “the terms provided therein” and in-  
 22          serting “to the agreement.

23          “(k) EXPLORATION INCENTIVES.—

24          “(1) IN GENERAL.—



1           “(A) WAIVER, SUSPENSION, OR REDUC-  
2           TION.—To encourage the greatest ultimate re-  
3           covery of oil or gas or in the interest of con-  
4           serva- tion, the Secretary may waive, suspend, or  
5           reduce the rental fees or minimum royalty, or  
6           reduce the royalty on an entire leasehold (in-  
7           cluding on any lease operated pursuant to a  
8           unit agreement), whenever (after consultation  
9           with the State of Alaska and the North Slope  
10          Borough of Alaska and the concurrence of any  
11          Regional Corporation for leases that include  
12          land that was made available for acquisition by  
13          the Regional Corporation under the provisions  
14          of section 1431(o) of the Alaska National Inter-  
15          est Lands Conservation Act (16 U.S.C. 3101 et  
16          seq.)) in the judgment of the Secretary it is  
17          necessary to do so to promote development, or  
18          whenever in the judgment of the Secretary the  
19          leases cannot be successfully operated under the  
20          terms provided therein.

21           “(B) APPLICABILITY.—This paragraph ap-  
22           plies to a lease that is in effect on or after the  
23           date of enactment of the Energy Policy Act of  
24           2005.”;

1           (13) by striking “The Secretary is authorized  
2 to” and inserting the following:

3           “(2) SUSPENSION OF OPERATIONS AND PRO-  
4 Duction.—The Secretary may”;

5           (14) by striking “In the event” and inserting  
6 the following:

7           “(3) SUSPENSION OF PAYMENTS.—If”;

8           (15) by striking “thereto; and (11) all” and in-  
9 serting “to the lease.

10          “(l) RECEIPTS.—All”;

11          (16) by redesignating subparagraphs (A), (B),  
12 and (C) as paragraphs (1), (2), and (3), respectively;

13          (17) by striking “Any agency” and inserting  
14 the following:

15          “(m) EXPLORATIONS.—Any agency”;

16          (18) by striking “Any action” and inserting the  
17 following:

18          “(n) ENVIRONMENTAL IMPACT STATEMENTS.—

19               “(1) JUDICIAL REVIEW.—Any action”;

20          (19) by striking “The detailed” and inserting  
21 the following:

22               “(2) INITIAL LEASE SALES.—The detailed”;

23          (20) by striking “of the Naval Petroleum Re-  
24 serves Production Act of 1976 (90 Stat. 304; 42  
25 U.S.C. 6504)”;

1 (21) by adding at the end the following:

2 “(o) REGULATIONS.—As soon as practicable after the  
3 date of enactment of the Energy Policy Act of 2005, the  
4 Secretary shall issue regulations to implement this section.

5 “(p) WAIVER OF ADMINISTRATION FOR CONVEYED  
6 LANDS.—

7 “(1) IN GENERAL.—Notwithstanding section  
8 14(g) of the Alaska Native Claims Settlement Act  
9 (43 U.S.C. 1613(g)), the Secretary of the Interior  
10 shall waive administration of any oil and gas lease  
11 to the extent that the lease covers any land in the  
12 Reserve in which all of the subsurface estate is con-  
13 veyed to the Arctic Slope Regional Corporation (re-  
14 ferred to in this subsection as the ‘Corporation’).

15 “(2) PARTIAL CONVEYANCE.—

16 “(A) IN GENERAL.—In a case in which a  
17 conveyance of a subsurface estate described in  
18 paragraph (1) does not include all of the land  
19 covered by the oil and gas lease, the person that  
20 owns the subsurface estate in any particular  
21 portion of the land covered by the lease shall be  
22 entitled to all of the revenues reserved under  
23 the lease as to that portion, including, without  
24 limitation, all the royalty payable with respect

1 to oil or gas produced from or allocated to that  
2 portion.

3 “(B) SEGREGATION OF LEASE.—In a case  
4 described in subparagraph (A), the Secretary of  
5 the Interior shall—

6 “(i) segregate the lease into 2 leases,  
7 1 of which shall cover only the subsurface  
8 estate conveyed to the Corporation; and

9 “(ii) waive administration of the lease  
10 that covers the subsurface estate conveyed  
11 to the Corporation.

12 “(C) NO CHANGE IN LEASE OBLIGA-  
13 TIONS.—The segregation of the lease described  
14 in subparagraph (B)(i) has no effect on the ob-  
15 ligations of the lessee under either of the result-  
16 ing leases, including obligations relating to op-  
17 erations, production, or other circumstances  
18 (other than payment of rentals or royalties).

19 “(3) AUTHORITY TO MANAGE FEDERALLY  
20 OWNED SURFACE ESTATE.—Nothing in this sub-  
21 section limits the authority of the Secretary of the  
22 Interior to manage the federally-owned surface es-  
23 tate within the Reserve.”.

1 (c) CONFORMING AMENDMENTS.—Section 104 of the  
2 Naval Petroleum Reserves Production Act of 1976 (42  
3 U.S.C. 6504) is amended—

4 (1) by striking subsection (a); and

5 (2) by redesignating subsections (b) through (d)  
6 as subsections (a) through (c), respectively.

7 **SEC. 318. NORTH SLOPE SCIENCE INITIATIVE.**

8 (a) ESTABLISHMENT.—

9 (1) IN GENERAL.—The Secretary of the Inte-  
10 rior shall establish a long-term initiative to be known  
11 as the “North Slope Science Initiative” (referred to  
12 in this section as the “Initiative”).

13 (2) PURPOSE.—The purpose of the Initiative  
14 shall be to implement efforts to coordinate collection  
15 of scientific data that will provide a better under-  
16 standing of the terrestrial, aquatic, and marine eco-  
17 systems of the North Slope of Alaska.

18 (b) OBJECTIVES.—To ensure that the Initiative is  
19 conducted through a comprehensive science strategy and  
20 implementation plan, the Initiative shall, at a minimum—

21 (1) identify and prioritize information needs for  
22 inventory, monitoring, and research activities to ad-  
23 dress the individual and cumulative effects of past,  
24 ongoing, and anticipated development activities and  
25 environmental change on the North Slope;

1           (2) develop an understanding of information  
2       needs for regulatory and land management agencies,  
3       local governments, and the public;

4           (3) focus on prioritization of pressing natural  
5       resource management and ecosystem information  
6       needs, coordination, and cooperation among agencies  
7       and organizations;

8           (4) coordinate ongoing and future inventory,  
9       monitoring, and research activities to minimize du-  
10      plication of effort, share financial resources and ex-  
11      pertise, and assure the collection of quality informa-  
12      tion;

13          (5) identify priority needs not addressed by  
14      agency science programs in effect on the date of en-  
15      actment of this Act and develop a funding strategy  
16      to meet those needs;

17          (6) provide a consistent approach to high cal-  
18      iber science, including inventory, monitoring, and re-  
19      search;

20          (7) maintain and improve public and agency ac-  
21      cess to—

22              (A) accumulated and ongoing research;

23              and

24              (B) contemporary and traditional local  
25      knowledge; and

1           (8) ensure through appropriate peer review that  
2           the science conducted by participating agencies and  
3           organizations is of the highest technical quality.

4           (c) MEMBERSHIP.—

5           (1) IN GENERAL.—To ensure comprehensive  
6           collection of scientific data, in carrying out the Ini-  
7           tiative, the Secretary shall consult and coordinate  
8           with Federal, State, and local agencies that have re-  
9           sponsibilities for land and resource management  
10          across the North Slope.

11          (2) COOPERATIVE AGREEMENTS.—The Sec-  
12          retary shall enter into cooperative agreements with  
13          the State of Alaska, the North Slope Borough, the  
14          Arctic Slope Regional Corporation, and other Fed-  
15          eral agencies as appropriate to coordinate efforts,  
16          share resources, and fund projects under this sec-  
17          tion.

18          (d) SCIENCE TECHNICAL ADVISORY PANEL.—

19          (1) IN GENERAL.—The Initiative shall include a  
20          panel to provide advice on proposed inventory, moni-  
21          toring, and research functions.

22          (2) MEMBERSHIP.—The panel described in  
23          paragraph (1) shall consist of a representative group  
24          of not more than 15 scientists and technical experts  
25          from diverse professions and interests, including the

1 oil and gas industry, subsistence users, Native Alas-  
2 kan entities, conservation organizations, wildlife  
3 management organizations, and academia, as deter-  
4 mined by the Secretary.

5 (e) REPORTS.—Not later than 3 years after the date  
6 of enactment of this section and each year thereafter, the  
7 Secretary shall publish a report that describes the studies  
8 and findings of the Initiative.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated such sums as are nec-  
11 essary to carry out this section.

12 **SEC. 319. ORPHANED, ABANDONED, OR IDLED WELLS ON**  
13 **FEDERAL LAND.**

14 (a) IN GENERAL.—The Secretary, in cooperation  
15 with the Secretary of Agriculture, shall establish a pro-  
16 gram not later than 1 year after the date of enactment  
17 of this Act to remediate, reclaim, and close orphaned,  
18 abandoned, or idled oil and gas wells located on land ad-  
19 ministered by the land management agencies within the  
20 Department of the Interior and the Department of Agri-  
21 culture.

22 (b) ACTIVITIES.—The program under subsection (a)  
23 shall—

24 (1) include a means of ranking orphaned, aban-  
25 doned, or idled wells sites for priority in remedi-



1        ation, reclamation, and closure, based on public  
2        health and safety, potential environmental harm,  
3        and other land use priorities;

4            (2) provide for identification and recovery of  
5        the costs of remediation, reclamation, and closure  
6        from persons or other entities currently providing a  
7        bond or other financial assurance required under  
8        State or Federal law for an oil or gas well that is  
9        orphaned, abandoned, or idled; and

10           (3) provide for recovery from the persons or en-  
11        tities identified under paragraph (2), or their sure-  
12        ties or guarantors, of the costs of remediation, rec-  
13        lamation, and closure of such wells.

14        (c) COOPERATION AND CONSULTATIONS.—In car-  
15        rying out the program under subsection (a), the Secretary  
16        shall—

17            (1) work cooperatively with the Secretary of Ag-  
18        riculture and the States within which Federal land  
19        is located; and

20            (2) consult with the Secretary of Energy and  
21        the Interstate Oil and Gas Compact Commission.

22        (d) PLAN.—Not later than 1 year after the date of  
23        enactment of this Act, the Secretary, in cooperation with  
24        the Secretary of Agriculture, shall submit to Congress a  
25        plan for carrying out the program under subsection (a).

1 (e) IDLED WELL.—For the purposes of this section,  
2 a well is idled if—

3 (1) the well has been nonoperational for at least  
4 7 years; and

5 (2) there is no anticipated beneficial use for the  
6 well.

7 (f) TECHNICAL ASSISTANCE PROGRAM FOR NON-  
8 FEDERAL LAND.—

9 (1) IN GENERAL.—The Secretary of Energy  
10 shall establish a program to provide technical and fi-  
11 nancial assistance to oil and gas producing States to  
12 facilitate State efforts over a 10-year period to en-  
13 sure a practical and economical remedy for environ-  
14 mental problems caused by orphaned or abandoned  
15 oil and gas exploration or production well sites on  
16 State or private land.

17 (2) ASSISTANCE.—The Secretary of Energy  
18 shall work with the States, through the Interstate  
19 Oil and Gas Compact Commission, to assist the  
20 States in quantifying and mitigating environmental  
21 risks of onshore orphaned or abandoned oil or gas  
22 wells on State and private land.

23 (3) ACTIVITIES.—The program under para-  
24 graph (1) shall include—

1 (A) mechanisms to facilitate identification,  
 2 if feasible, of the persons currently providing a  
 3 bond or other form of financial assurance re-  
 4 quired under State or Federal law for an oil or  
 5 gas well that is orphaned or abandoned;

6 (B) criteria for ranking orphaned or aban-  
 7 doned well sites based on factors such as public  
 8 health and safety, potential environmental  
 9 harm, and other land use priorities;

10 (C) information and training programs on  
 11 best practices for remediation of different types  
 12 of sites; and

13 (D) funding of State mitigation efforts on  
 14 a cost-shared basis.

15 (g) AUTHORIZATION OF APPROPRIATIONS.—

16 (1) IN GENERAL.—There are authorized to be  
 17 appropriated to carry out this section \$25,000,000  
 18 for each of fiscal years 2006 through 2010.

19 (2) USE.—Of the amounts authorized under  
 20 paragraph (1), \$5,000,000 are authorized for each  
 21 fiscal year for activities under subsection (f).

22 **SEC. 320. COMBINED HYDROCARBON LEASING.**

23 (a) SPECIAL PROVISIONS REGARDING LEASING.—  
 24 Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C.  
 25 226(b)(2)) is amended—

1 (1) by inserting “(A)” after “(2)”;

2 (2) in the first sentence of subparagraph (A)  
3 (as designated by paragraph (1)), by striking “they  
4 shall be” and inserting “the lands may be”; and

5 (3) by adding at the end the following:

6 “(B) For any area that contains any combination of  
7 tar sand and oil or gas (or both), the Secretary may issue  
8 under this Act, separately—

9 “(i) a lease for exploration for and extraction of  
10 tar sand; and

11 “(ii) a lease for exploration for and development  
12 of oil and gas.

13 “(C) A lease described in subparagraph (B) shall  
14 have provisions addressing the appropriate accommoda-  
15 tion of resources.

16 “(D) A lease issued for tar sand development shall  
17 be issued using the same bidding process, annual rental,  
18 and posting period as a lease issued for oil and gas, except  
19 that the minimum acceptable bid required for a lease  
20 issued for tar sand shall be \$2 per acre.”.

21 (b) CONFORMING AMENDMENT.—Section  
22 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C.  
23 226(b)(1)(B)) is amended in the second sentence by in-  
24 serting “subject to paragraph (2)(B),” after “There-  
25 after,”.

1 (c) REGULATIONS.—Not later than 45 days after the  
 2 date of enactment of this Act, the Secretary of the Interior  
 3 shall issue final regulations to implement the amendments  
 4 made by this section.

5 **SEC. 321. ALTERNATE ENERGY-RELATED USES ON THE**  
 6 **OUTER CONTINENTAL SHELF.**

7 (a) AMENDMENT TO OUTER CONTINENTAL SHELF  
 8 LANDS ACT.—Section 8 of the Outer Continental Shelf  
 9 Lands Act (43 U.S.C. 1337) is amended by adding at the  
 10 end the following:

11 “(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR  
 12 ENERGY AND RELATED PURPOSES.—

13 “(1) IN GENERAL.—The Secretary, in consulta-  
 14 tion with the Secretary of the Department in which  
 15 the Coast Guard is operating and other relevant de-  
 16 partments and agencies of the Federal Government,  
 17 may grant a lease, easement, or right-of-way on the  
 18 outer Continental Shelf for activities not otherwise  
 19 authorized in this Act, the Deepwater Port Act of  
 20 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal  
 21 Energy Conversion Act of 1980 (42 U.S.C. 9101 et  
 22 seq.), or other applicable law, if those activities—

23 “(A) support exploration, development, or  
 24 production of oil or natural gas, except that a  
 25 lease, easement, or right-of-way shall not be

1 granted in an area in which oil and gas  
2 preleasing, leasing, and related activities are  
3 prohibited by a moratorium;

4 “(B) support transportation of oil or nat-  
5 ural gas, excluding shipping activities;

6 “(C) produce or support production, trans-  
7 portation, or transmission of energy from  
8 sources other than oil and gas; or

9 “(D) use, for energy-related purposes or  
10 for other authorized marine-related purposes,  
11 facilities currently or previously used for activi-  
12 ties authorized under this Act, except that any  
13 oil and gas energy-related uses shall not be au-  
14 thorized in areas in which oil and gas  
15 preleasing, leasing, and related activities are  
16 prohibited by a moratorium.

17 “(2) PAYMENTS.—The Secretary shall establish  
18 royalties, fees, rentals, bonus, or other payments to  
19 ensure a fair return to the United States for any  
20 lease, easement, or right-of-way granted under this  
21 subsection.

22 “(3) COMPETITIVE OR NONCOMPETITIVE  
23 BASIS.—Except with respect to projects that meet  
24 the criteria established under section 321(d) of the  
25 Energy Policy Act of 2005, the Secretary shall issue

1 a lease, easement, or right-of-way under paragraph  
2 (1) on a competitive basis unless the Secretary de-  
3 termines after public notice of a proposed lease,  
4 easement, or right-of-way that there is no competi-  
5 tive interest.

6 “(4) REQUIREMENTS.—The Secretary shall en-  
7 sure that any activity under this subsection is car-  
8 ried out in a manner that provides for—

9 “(A) safety;

10 “(B) protection of the environment;

11 “(C) prevention of waste;

12 “(D) conservation of the natural resources  
13 of the outer Continental Shelf;

14 “(E) coordination with relevant Federal  
15 agencies;

16 “(F) protection of national security inter-  
17 ests of the United States;

18 “(G) protection of correlative rights in the  
19 outer Continental Shelf;

20 “(H) a fair return to the United States for  
21 any lease, easement, or right-of-way under this  
22 subsection;

23 “(I) prevention of interference with reason-  
24 able uses (as determined by the Secretary) of

1 the exclusive economic zone, the high seas, and  
2 the territorial seas;

3 “(J) consideration of—

4 “(i) the location of, and any schedule  
5 relating to, a lease, easement, or right-of-  
6 way for an area of the outer Continental  
7 Shelf; and

8 “(ii) any other use of the sea or sea-  
9 bed, including use for a fishery, a sealane,  
10 a potential site of a deepwater port, or  
11 navigation;

12 “(K) public notice and comment on any  
13 proposal submitted for a lease, easement, or  
14 right-of-way under this subsection; and

15 “(L) oversight, inspection, research, moni-  
16 toring, and enforcement relating to a lease,  
17 easement, or right-of-way under this subsection.

18 “(5) LEASE DURATION, SUSPENSION, AND CAN-  
19 CELLATION.—The Secretary shall provide for the  
20 duration, issuance, transfer, renewal, suspension,  
21 and cancellation of a lease, easement, or right-of-way  
22 under this subsection.

23 “(6) SECURITY.—The Secretary shall require  
24 the holder of a lease, easement, or right-of-way  
25 granted under this subsection to—



1           “(A) furnish a surety bond or other form  
2           of security, as prescribed by the Secretary;

3           “(B) comply with such other requirements  
4           as the Secretary considers necessary to protect  
5           the interests of the public and the United  
6           States; and

7           “(C) provide for the restoration of the  
8           lease, easement, or right-of-way.

9           “(7) COORDINATION AND CONSULTATION WITH  
10          AFFECTED STATE AND LOCAL GOVERNMENTS.—The  
11          Secretary shall provide for coordination and con-  
12          sultation with the Governor of any State or the exec-  
13          utive of any local government that may be affected  
14          by a lease, easement, or right-of-way under this sub-  
15          section.

16          “(8) REGULATIONS.—Not later than 270 days  
17          after the date of enactment of the Energy Policy Act  
18          of 2005, the Secretary, in consultation with the Sec-  
19          retary of Defense, the Secretary of the Department  
20          in which the Coast Guard is operating, the Secretary  
21          of Commerce, heads of other relevant departments  
22          and agencies of the Federal Government, and the  
23          Governor of any affected State, shall issue any nec-  
24          essary regulations to carry out this subsection.

1           “(9) EFFECT OF SUBSECTION.—Nothing in this  
2       subsection displaces, supersedes, limits, or modifies  
3       the jurisdiction, responsibility, or authority of any  
4       Federal or State agency under any other Federal  
5       law.

6           “(10) APPLICABILITY.—This subsection does  
7       not apply to any area on the outer Continental Shelf  
8       within the exterior boundaries of any unit of the Na-  
9       tional Park System, National Wildlife Refuge Sys-  
10      tem, or National Marine Sanctuary System, or any  
11      National Monument.”.

12      (b) COORDINATED OCS MAPPING INITIATIVE.—

13           (1) IN GENERAL.—The Secretary, in coopera-  
14      tion with the Secretary of Commerce, the Com-  
15      mandant of the Coast Guard, and the Secretary of  
16      Defense, shall establish an interagency comprehen-  
17      sive digital mapping initiative for the outer Conti-  
18      nental Shelf to assist in decisionmaking relating to  
19      the siting of activities under subsection (p) of sec-  
20      tion 8 of the Outer Continental Shelf Lands Act (43  
21      U.S.C. 1337) (as added by subsection (a)).

22           (2) USE OF DATA.—The mapping initiative  
23      shall use, and develop procedures for accessing, data  
24      collected before the date on which the mapping ini-

1 initiative is established, to the maximum extent prac-  
2 ticable.

3 (3) INCLUSIONS.—Mapping carried out under  
4 the mapping initiative shall include an indication of  
5 the locations on the outer Continental Shelf of—

6 (A) Federally-permitted activities;

7 (B) obstructions to navigation;

8 (C) submerged cultural resources;

9 (D) undersea cables;

10 (E) offshore aquaculture projects; and

11 (F) any area designated for the purpose of  
12 safety, national security, environmental protec-  
13 tion, or conservation and management of living  
14 marine resources.

15 (c) CONFORMING AMENDMENT.—Section 8 of the  
16 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is  
17 amended by striking the section heading and inserting the  
18 following: “LEASES, EASEMENTS, AND RIGHTS-OF-WAY  
19 ON THE OUTER CONTINENTAL SHELF.—”.

20 (d) SAVINGS PROVISION.—Nothing in the amend-  
21 ment made by subsection (a) requires the resubmittal of  
22 any document that was previously submitted or the reau-  
23 thorization of any action that was previously authorized  
24 with respect to a project for which, before the date of en-  
25 actment of this Act—

1           (1) an offshore test facility has been con-  
2        structed; or

3           (2) a request for a proposal has been issued by  
4        a public authority.

5 **SEC. 322. PRESERVATION OF GEOLOGICAL AND GEO-**  
6 **PHYSICAL DATA.**

7        (a) **SHORT TITLE.**—This section may be cited as the  
8        “National Geological and Geophysical Data Preservation  
9        Program Act of 2005”.

10       (b) **PROGRAM.**—The Secretary shall carry out a Na-  
11       tional Geological and Geophysical Data Preservation Pro-  
12       gram in accordance with this section—

13           (1) to archive geologic, geophysical, and engi-  
14        neering data, maps, well logs, and samples;

15           (2) to provide a national catalog of such archi-  
16        val material; and

17           (3) to provide technical and financial assistance  
18        related to the archival material.

19       (c) **PLAN.**—Not later than 1 year after the date of  
20       enactment of this Act, the Secretary shall submit to Con-  
21       gress a plan for the implementation of the Program.

22       (d) **DATA ARCHIVE SYSTEM.**—

23           (1) **ESTABLISHMENT.**—The Secretary shall es-  
24        tablish, as a component of the Program, a data ar-  
25        chive system to provide for the storage, preservation,

1 and archiving of subsurface, surface, geological, geo-  
2 physical, and engineering data and samples. The  
3 Secretary, in consultation with the Advisory Com-  
4 mittee, shall develop guidelines relating to the data  
5 archive system, including the types of data and sam-  
6 ples to be preserved.

7 (2) SYSTEM COMPONENTS.—The system shall  
8 be comprised of State agencies that elect to be part  
9 of the system and agencies within the Department  
10 of the Interior that maintain geological and geo-  
11 physical data and samples that are designated by  
12 the Secretary in accordance with this subsection.  
13 The Program shall provide for the storage of data  
14 and samples through data repositories operated by  
15 such agencies.

16 (3) LIMITATION OF DESIGNATION.—The Sec-  
17 retary may not designate a State agency as a com-  
18 ponent of the data archive system unless that agency  
19 is the agency that acts as the geological survey in  
20 the State.

21 (4) DATA FROM FEDERAL LAND.—The data ar-  
22 chive system shall provide for the archiving of rel-  
23 evant subsurface data and samples obtained from  
24 Federal land—

1 (A) in the most appropriate repository des-  
2 ignated under paragraph (2), with preference  
3 being given to archiving data in the State in  
4 which the data were collected; and

5 (B) consistent with all applicable law and  
6 requirements relating to confidentiality and pro-  
7 prietary data.

8 (e) NATIONAL CATALOG.—

9 (1) IN GENERAL.—As soon as practicable after  
10 the date of enactment of this Act, the Secretary  
11 shall develop and maintain, as a component of the  
12 Program, a national catalog that identifies—

13 (A) data and samples available in the data  
14 archive system established under subsection (d);

15 (B) the repository for particular material  
16 in the system; and

17 (C) the means of accessing the material.

18 (2) AVAILABILITY.—The Secretary shall make  
19 the national catalog accessible to the public on the  
20 site of the Survey on the Internet, consistent with all  
21 applicable requirements related to confidentiality  
22 and proprietary data.

23 (f) ADVISORY COMMITTEE.—

1           (1) IN GENERAL.—The Advisory Committee  
2       shall advise the Secretary on planning and imple-  
3       mentation of the Program.

4           (2) NEW DUTIES.—In addition to its duties  
5       under the National Geologic Mapping Act of 1992  
6       (43 U.S.C. 31a et seq.), the Advisory Committee  
7       shall perform the following duties:

8           (A) Advise the Secretary on developing  
9       guidelines and procedures for providing assist-  
10      ance for facilities under subsection (g)(1).

11          (B) Review and critique the draft imple-  
12      mentation plan prepared by the Secretary under  
13      subsection (c).

14          (C) Identify useful studies of data archived  
15      under the Program that will advance under-  
16      standing of the Nation’s energy and mineral re-  
17      sources, geologic hazards, and engineering geol-  
18      ogy.

19          (D) Review the progress of the Program in  
20      archiving significant data and preventing the  
21      loss of such data, and the scientific progress of  
22      the studies funded under the Program.

23          (E) Include in the annual report to the  
24      Secretary required under section 5(b)(3) of the  
25      National Geologic Mapping Act of 1992 (43

1 U.S.C. 31d(b)(3)) an evaluation of the progress  
2 of the Program toward fulfilling the purposes of  
3 the Program under subsection (b).

4 (g) FINANCIAL ASSISTANCE.—

5 (1) ARCHIVE FACILITIES.—Subject to the avail-  
6 ability of appropriations, the Secretary shall provide  
7 financial assistance to a State agency that is des-  
8 ignated under subsection (d)(2) for providing facili-  
9 ties to archive energy material.

10 (2) STUDIES.—Subject to the availability of ap-  
11 propriations, the Secretary shall provide financial as-  
12 sistance to any State agency designated under sub-  
13 section (d)(2) for studies and technical assistance  
14 activities that enhance understanding, interpreta-  
15 tion, and use of materials archived in the data ar-  
16 chive system established under subsection (d).

17 (3) FEDERAL SHARE.—The Federal share of  
18 the cost of an activity carried out with assistance  
19 under this subsection shall be not more than 50 per-  
20 cent of the total cost of the activity.

21 (4) PRIVATE CONTRIBUTIONS.—The Secretary  
22 shall apply to the non-Federal share of the cost of  
23 an activity carried out with assistance under this  
24 subsection the value of private contributions of prop-  
25 erty and services used for that activity.



1       (h) REPORT.—The Secretary shall include in each re-  
2 port under section 8 of the National Geologic Mapping Act  
3 of 1992 (43 U.S.C. 31g)—

4           (1) a description of the status of the Program;

5           (2) an evaluation of the progress achieved in  
6 developing the Program during the period covered by  
7 the report; and

8           (3) any recommendations for legislative or other  
9 action the Secretary considers necessary and appro-  
10 priate to fulfill the purposes of the Program under  
11 subsection (b).

12       (i) MAINTENANCE OF STATE EFFORT.—It is the in-  
13 tent of Congress that the States not use this section as  
14 an opportunity to reduce State resources applied to the  
15 activities that are the subject of the Program.

16       (j) DEFINITIONS.—In this section:

17           (1) ADVISORY COMMITTEE.—The term “Advi-  
18 sory Committee” means the advisory committee es-  
19 tablished under section 5 of the National Geologic  
20 Mapping Act of 1992 (43 U.S.C. 31d).

21           (2) PROGRAM.—The term “Program” means  
22 the National Geological and Geophysical Data Pres-  
23 ervation Program carried out under this section.

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior, acting through the Di-  
3           rector of the United States Geological Survey.

4           (4) SURVEY.—The term “Survey” means the  
5           United States Geological Survey.

6           (k) AUTHORIZATION OF APPROPRIATIONS.—There  
7           are authorized to be appropriated to carry out this section  
8           \$30,000,000 for each of fiscal years 2006 through 2010.

9           **SEC. 323. OIL AND GAS LEASE ACREAGE LIMITATIONS.**

10          Section 27(d)(1) of the Mineral Leasing Act (30  
11          U.S.C. 184(d)(1)) is amended by inserting after “acreage  
12          held in special tar sand areas” the following: “, and acre-  
13          age under any lease any portion of which has been com-  
14          mitted to a federally approved unit or cooperative plan or  
15          communitization agreement or for which royalty (includ-  
16          ing compensatory royalty or royalty in-kind) was paid in  
17          the preceding calendar year,”.

18          **SEC. 324. ASSESSMENT OF DEPENDENCE OF STATE OF HA-**

19                               **WAI ON OIL.**

20          (a) ASSESSMENT.—The Secretary shall assess the  
21          economic implications of the dependence of the State of  
22          Hawaii on oil as the principal source of energy for the  
23          State, including—

1           (1) the short- and long-term prospects for crude  
2           oil supply disruption and price volatility and poten-  
3           tial impacts on the economy of Hawaii;

4           (2) the economic relationship between oil-fired  
5           generation of electricity from residual fuel and re-  
6           fined petroleum products consumed for ground, ma-  
7           rine, and air transportation;

8           (3) the technical and economic feasibility of in-  
9           creasing the contribution of renewable energy re-  
10          sources for generation of electricity, on an island-by-  
11          island basis, including—

12                   (A) siting and facility configuration;

13                   (B) environmental, operational, and safety  
14          considerations;

15                   (C) the availability of technology;

16                   (D) the effects on the utility system, in-  
17          cluding reliability;

18                   (E) infrastructure and transport require-  
19          ments;

20                   (F) community support; and

21                   (G) other factors affecting the economic  
22          impact of such an increase and any effect on  
23          the economic relationship described in para-  
24          graph (2);

1           (4) the technical and economic feasibility of  
2       using liquefied natural gas to displace residual fuel  
3       oil for electric generation, including neighbor island  
4       opportunities, and the effect of the displacement on  
5       the economic relationship described in paragraph  
6       (2), including—

7                       (A) the availability of supply;

8                       (B) siting and facility configuration for on-  
9       shore and offshore liquefied natural gas receiv-  
10      ing terminals;

11                      (C) the factors described in subparagraphs  
12      (B) through (F) of paragraph (3); and

13                      (D) other economic factors;

14           (5) the technical and economic feasibility of  
15       using renewable energy sources (including hydrogen)  
16       for ground, marine, and air transportation energy  
17       applications to displace the use of refined petroleum  
18       products, on an island-by-island basis, and the eco-  
19       nomic impact of the displacement on the relationship  
20       described in (2); and

21           (6) an island-by-island approach to—

22                      (A) the development of hydrogen from re-  
23       newable resources; and

24                      (B) the application of hydrogen to the en-  
25       ergy needs of Hawaii

1 (b) CONTRACTING AUTHORITY.—The Secretary may  
2 carry out the assessment under subsection (a) directly or,  
3 in whole or in part, through 1 or more contracts with  
4 qualified public or private entities.

5 (c) REPORT.—Not later than 300 days after the date  
6 of enactment of this Act, the Secretary shall prepare (in  
7 consultation with agencies of the State of Hawaii and  
8 other stakeholders, as appropriate), and submit to Con-  
9 gress, a report describing the findings, conclusions, and  
10 recommendations resulting from the assessment.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated such sums as are nec-  
13 essary to carry out this section.

14 **SEC. 325. DENALI COMMISSION.**

15 (a) DEFINITION OF COMMISSION.—In this section,  
16 the term “Commission” means the Denali Commission es-  
17 tablished by the Denali Commission Act of 1998 (42  
18 U.S.C. 3121 note; Public Law 105–277).

19 (b) ENERGY PROGRAMS.—The Commission shall use  
20 amounts made available under subsection (d) to carry out  
21 energy programs, including—

22 (1) energy generation and development, includ-  
23 ing—

24 (A) fuel cells, hydroelectric, solar, wind,  
25 wave, and tidal energy; and

1 (B) alternative energy sources;

2 (2) the construction of energy transmission, in-  
3 cluding interties;

4 (3) the replacement and cleanup of fuel tanks;

5 (4) the construction of fuel transportation net-  
6 works and related facilities;

7 (5) power cost equalization programs; and

8 (6) projects using coal as a fuel, including coal  
9 gasification projects.

10 (c) OPEN MEETINGS.—

11 (1) IN GENERAL.—Except as provided in para-  
12 graph (2), a meeting of the Commission shall be  
13 open to the public if—

14 (A) the Commission members take action  
15 on behalf of the Commission; or

16 (B) the deliberations of the Commission  
17 determine, or result in the joint conduct or dis-  
18 position of, official Commission business.

19 (2) EXCEPTIONS.—Paragraph (1) shall not  
20 apply to any portion of a Commission meeting for  
21 which the Commission, in public session, votes to  
22 close the meeting for the reasons described in para-  
23 graph (2), (4), (5), or (6) of subsection (c) of section  
24 552b of title 5, United States Code.

25 (3) PUBLIC NOTICE.—

1 (A) IN GENERAL.—At least 1 week before  
2 a meeting of the Commission, the Commission  
3 shall make a public announcement of the meet-  
4 ing that describes—

5 (i) the time, place, and subject matter  
6 of the meeting;

7 (ii) whether the meeting is to be open  
8 or closed to the public; and

9 (iii) the name and telephone number  
10 of an appropriate person to respond to re-  
11 quests for information about the meeting.

12 (B) ADDITIONAL NOTICE.—The Commis-  
13 sion shall make a public announcement of any  
14 change to the information made available under  
15 subparagraph (A) at the earliest practicable  
16 time.

17 (4) MINUTES.—The Commission shall keep,  
18 and make available to the public, a transcript, elec-  
19 tronic recording, or minutes from each Commission  
20 meeting, except for portions of the meeting closed  
21 under paragraph (2).

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
23 authorized to be appropriated to the Commission not more  
24 than \$55,000,000 for each of fiscal years 2006 through  
25 2015 to carry out subsection (b).

1 **SEC. 326. COMPREHENSIVE INVENTORY OF OCS OIL AND**  
2 **NATURAL GAS RESOURCES.**

3 (a) IN GENERAL.—The Secretary of the Interior shall  
4 conduct an inventory and analysis of oil and natural gas  
5 resources beneath all of the waters of the United States  
6 Outer Continental Shelf (“OCS”). The inventory and  
7 analysis shall—

8 (1) use available data on oil and gas resources  
9 in areas offshore of Mexico and Canada that will  
10 provide information on trends of oil and gas accu-  
11 mulation in areas of the OCS;

12 (2) use any available technology, except drilling,  
13 but including 3–D seismic technology to obtain accu-  
14 rate resource estimates;

15 (3) analyze how resource estimates in OCS  
16 areas have changed over time in regards to gath-  
17 ering geological and geophysical data, initial explo-  
18 ration, or full field development, including areas  
19 such as the deepwater and subsalt areas in the Gulf  
20 of Mexico;

21 (4) estimate the effect that understated oil and  
22 gas resource inventories have on domestic energy in-  
23 vestments; and

24 (5) identify and explain how legislative, regu-  
25 latory, and administrative programs or processes re-  
26 strict or impede the development of identified re-



1 sources and the extent that they affect domestic sup-  
2 ply, such as moratoria, lease terms and conditions,  
3 operational stipulations and requirements, approval  
4 delays by the Federal government and coastal  
5 States, and local zoning restrictions for onshore  
6 processing facilities and pipeline landings.

7 (b) REPORTS.—The Secretary of Interior shall sub-  
8 mit a report to Congress on the inventory of estimates  
9 and the analysis of restrictions or impediments, together  
10 with any recommendations, within 6 months of the date  
11 of enactment of the section. The report shall be publicly  
12 available and updated at least every 5 years.

13 **SEC. 327. REVIEW AND DEMONSTRATION PROGRAM FOR**  
14 **OIL AND NATURAL GAS PRODUCTION.**

15 (a) REVIEW.—

16 (1) IN GENERAL.—Not later than 18 months  
17 after the date of enactment of this Act, the Sec-  
18 retary of the Interior, in consultation with the Sec-  
19 retary of Energy (referred to in this section as the  
20 “Secretary”), shall carry out a review of, and submit  
21 to Congress a report on opportunities to enhance  
22 production of oil and natural gas from public land  
23 and the outer Continental Shelf, and increase se-  
24 questration of carbon dioxide through the provision  
25 of royalty or other production incentives to lessees

1       that inject carbon dioxide as a means of enhanced  
2       recovery.

3               (2) COMPONENTS.—The Secretary of the Inte-  
4       rior shall describe in the review and report under  
5       paragraph (1)—

6                       (A) eligibility requirements for incentives;

7                       (B) the appropriate level of royalty relief,  
8       if any;

9                       (C) other appropriate production incen-  
10      tives, if any;

11                      (D) an estimate of the increased quantity  
12      of oil and gas production that could be achieved  
13      through implementation of those incentives;

14                      (E) an estimate of the quantity of carbon  
15      sequestration that could be achieved through  
16      implementation of those incentives;

17                      (F) practices (and the extent of the use of  
18      the practices) as of the date of enactment of  
19      this Act that rely on carbon dioxide injection  
20      for enhanced oil and gas recovery; and

21                      (G) any recommendations for implementa-  
22      tion of royalty relief or other production incen-  
23      tives, including—

24                               (i) the period of time during which  
25      those incentives should be available; and

- 1 (ii) any geographic or other limita-  
2 tions that should apply to the incentives.

3 (b) DEMONSTRATION PROGRAM.—

4 (1) ESTABLISHMENT.—

5 (A) IN GENERAL.—The Secretary shall es-  
6 tablish a competitive grant program to provide  
7 grants to producers of oil and gas to carry out  
8 projects to inject carbon dioxide for the purpose  
9 of enhancing recovery of oil or natural gas while  
10 increasing the sequestration of carbon dioxide.

11 (B) PROJECTS.—The demonstration pro-  
12 gram shall provide for—

13 (i) not more than 10 projects in the  
14 Williston Basin in North Dakota and Mon-  
15 tana; and

16 (ii) 1 project in the Cook Inlet Basin  
17 in Alaska.

18 (2) REQUIREMENTS.—

19 (A) IN GENERAL.—The Secretary shall  
20 issue requirements relating to applications for  
21 grants under paragraph (1).

22 (B) RULEMAKING.—The issuance of re-  
23 quirements under subparagraph (A) shall not  
24 require a rulemaking.

1 (C) MINIMUM REQUIREMENTS.—At a min-  
2 imum, the Secretary shall require under sub-  
3 paragraph (A) that an application for a grant  
4 include—

5 (i) a description of the project pro-  
6 posed in the application;

7 (ii) an estimate of the production in-  
8 crease and the duration of the production  
9 increase from the project, as compared to  
10 conventional recovery techniques, including  
11 water flooding;

12 (iii) an estimate of the carbon dioxide  
13 sequestered by project, over the life of the  
14 project;

15 (iv) a plan to collect and disseminate  
16 data relating to each project to be funded  
17 by the grant;

18 (v) a description of the means by  
19 which the project will be sustainable with-  
20 out Federal assistance after the completion  
21 of the term of the grant;

22 (vi) a complete description of the  
23 costs of the project, including acquisition,  
24 construction, operation, and maintenance  
25 costs over the expected life of the project;

1 (vii) a description of which costs of  
2 the project will be supported by Federal  
3 assistance under this section; and

4 (viii) a description of any secondary  
5 or tertiary recovery efforts in the field and  
6 the efficacy of water flood recovery tech-  
7 niques used.

8 (3) PARTNERS.—An applicant for a grant  
9 under paragraph (1) may carry out a project under  
10 a pilot program in partnership with 1 or more other  
11 public or private entities.

12 (4) SELECTION CRITERIA.—In evaluating appli-  
13 cations under this subsection, the Secretary shall—

14 (A) consider the previous experience with  
15 similar projects of each applicant;

16 (B) give priority consideration to applica-  
17 tions that—

18 (i) are most likely to maximize pro-  
19 duction of oil and gas in a cost-effective  
20 manner;

21 (ii) sequester significant quantities of  
22 carbon dioxide from anthropogenic sources;

23 (iii) demonstrate the greatest commit-  
24 ment on the part of the applicant to ensure  
25 funding for the proposed project and the

1           greatest likelihood that the project will be  
2           maintained or expanded after Federal as-  
3           sistance under this section is completed;  
4           and

5                   (iv) minimize any adverse environ-  
6           mental effects from the project.

7           (5) DEMONSTRATION PROGRAM REQUIRE-  
8           MENTS.—

9                   (A) MAXIMUM AMOUNT.—The Secretary  
10           shall not provide more than \$3,000,000 in Fed-  
11           eral assistance under this subsection to any ap-  
12           plicant.

13                   (B) COST SHARING.—The Secretary shall  
14           require cost-sharing in accordance with section  
15           1002.

16                   (C) PERIOD OF GRANTS.—

17                           (i) IN GENERAL.—A project funded by  
18           a grant under this subsection shall begin  
19           construction not later than 2 years after  
20           the date of provision of the grant, but in  
21           any case not later than December 31,  
22           2010.

23                           (ii) TERM.—The Secretary shall not  
24           provide grant funds to any applicant under

1                   this subsection for a period of more than  
2                   5 years.

3                   (6) TRANSFER OF INFORMATION AND KNOWL-  
4                   EDGE.—The Secretary shall establish mechanisms to  
5                   ensure that the information and knowledge gained  
6                   by participants in the program under this subsection  
7                   are transferred among other participants and inter-  
8                   ested parties, including other applicants that sub-  
9                   mitted applications for a grant under this sub-  
10                  section.

11                  (7) SCHEDULE.—

12                   (A) PUBLICATION.—Not later than 180  
13                   days after the date of enactment of this Act,  
14                   the Secretary shall publish in the Federal Reg-  
15                   ister, and elsewhere, as appropriate, a request  
16                   for applications to carry out projects under this  
17                   subsection.

18                   (B) DATE FOR APPLICATIONS.—An appli-  
19                   cation for a grant under this subsection shall be  
20                   submitted not later than 180 days after the  
21                   date of publication of the request under sub-  
22                   paragraph (A).

23                   (C) SELECTION.—After the date by which  
24                   applications for grants are required to be sub-  
25                   mitted under subparagraph (B), the Secretary,

1           in a timely manner, shall select, after peer re-  
2           view and based on the criteria under paragraph  
3           (4), those projects to be awarded a grant under  
4           this subsection.

5           (c) AUTHORIZATION OF APPROPRIATIONS.—There  
6           are authorized to be appropriated such sums as are nec-  
7           essary to carry out this section.

## 8   **Subtitle C—Access to Federal Land**

### 9   **SEC. 341. FEDERAL ONSHORE OIL AND GAS LEASING PRAC-** 10           **TICES.**

11           (a) REVIEW OF ONSHORE OIL AND GAS LEASING  
12           PRACTICES.—The Secretary of the Interior shall make the  
13           necessary arrangements with the National Academy of  
14           Public Administration to commission the Academy to per-  
15           form a review of Federal onshore oil and gas leasing prac-  
16           tices. The Secretary of the Interior shall conduct an inter-  
17           nal review concurrent with the work of the National Acad-  
18           emy of Public Administration. The reviews shall include  
19           the following:

20           (1) The process by which Federal land man-  
21           agers accept or reject an offer to lease, including the  
22           timeframes in which such offers are acted upon, and  
23           any recommendations for improving and expediting  
24           the process.



1           (2) The process for considering applications for  
2 permits to drill, including the timeframes in which  
3 such applications are considered, and any rec-  
4 ommendations for improving and expediting the  
5 process.

6           (3) The process for considering surface use  
7 plans of operation, including the timeframes in  
8 which such plans are considered, and any rec-  
9 ommendations for improving and expediting the  
10 process.

11          (4) The process for administrative appeal of de-  
12 cisions or orders of officers or employees of the Bu-  
13 reau of Land Management with respect to a Federal  
14 oil or gas lease, including the timeframes in which  
15 such appeals are heard and decided, and any rec-  
16 ommendations for improving and expediting the  
17 process.

18          (5) The process by which Federal land man-  
19 agers identify stipulations to address site-specific  
20 concerns and conditions, including those relating to  
21 the environment and resource use conflicts, whether  
22 stipulations are effective in addressing resource val-  
23 ues, and any recommendations for expediting and  
24 improving the identification and effectiveness of stip-  
25 ulations.

1           (6) The process by which the Federal land  
2           management agencies coordinate planning and anal-  
3           ysis with planning of Federal, State, and local agen-  
4           cies having jurisdiction over adjacent areas and  
5           other land uses, and any recommendations for im-  
6           proving and expediting the process.

7           (7) The documentation provided to lease appli-  
8           cants and lessees with respect to determinations to  
9           reject lease applications or to require modification of  
10          proposed surface use plans of operation and rec-  
11          ommendations regarding improvement of such docu-  
12          mentation to more clearly set forth the basis for the  
13          decision.

14          (8) The adequacy of resources available to the  
15          Secretary of the Interior for administering the Fed-  
16          eral onshore oil and gas leasing program.

17          (9) Actions taken by the Secretary under sec-  
18          tion 3 of Executive Order No. 13212 (42 U.S.C.  
19          13201 note).

20          (10) Actions taken by, or plans of, the Sec-  
21          retary to improve the Federal onshore oil and gas  
22          leasing program.

23          (b) REPORT.—The Secretary of the Interior and the  
24          National Academy of Public Administration shall report  
25          to the Committee on Resources of the House of Represent-

1 atives and to the Committee on Energy and Natural Re-  
2 sources of the Senate not later than 18 months after the  
3 date of the enactment of this Act, summarizing the find-  
4 ings of their respective reviews undertaken pursuant to  
5 this section and making recommendations with respect to  
6 improvements in the Federal onshore oil and gas leasing  
7 program.

8 **SEC. 342. MANAGEMENT OF FEDERAL OIL AND GAS LEAS-**  
9 **ING PROGRAMS.**

10 (a) **TIMELY ACTION ON LEASES AND PERMITS.—**

11 (1) **SECRETARY OF THE INTERIOR.—**To ensure  
12 timely action on oil and gas leases and applications  
13 for permits to drill on land otherwise available for  
14 leasing, the Secretary of the Interior (referred to in  
15 this section as the “Secretary”) shall—

16 (A) ensure expeditious compliance with  
17 section 102(2)(C) of the National Environ-  
18 mental Policy Act of 1969 (42 U.S.C.  
19 4332(2)(C)) and any other applicable environ-  
20 mental and cultural resources laws;

21 (B) improve consultation and coordination  
22 with the States and the public; and

23 (C) improve the collection, storage, and re-  
24 trieval of information relating to the oil and gas  
25 leasing activities.

1           (2) SECRETARY OF AGRICULTURE.—To ensure  
2           timely action on oil and gas lease applications for  
3           permits to drill on land otherwise available for leas-  
4           ing, the Secretary of Agriculture shall—

5                   (A) ensure expeditious compliance with all  
6                   applicable environmental and cultural resources  
7                   laws; and

8                   (B) improve the collection, storage, and re-  
9                   trieval of information relating to the oil and gas  
10                  leasing activities.

11          (b) BEST MANAGEMENT PRACTICES.—

12               (1) IN GENERAL.—Not later than 18 months  
13               after the date of enactment of this Act, the Sec-  
14               retary shall develop and implement best manage-  
15               ment practices to—

16                   (A) improve the administration of the on-  
17                   shore oil and gas leasing program under the  
18                   Mineral Leasing Act (30 U.S.C. 181 et seq.);  
19                   and

20                   (B) ensure timely action on oil and gas  
21                   leases and applications for permits to drill on  
22                   land otherwise available for leasing.

23               (2) REGULATIONS.—Not later than 180 days  
24               after the development of the best management prac-  
25               tices under paragraph (1), the Secretary shall pub-

1       lish, for public comment, proposed regulations that  
2       set forth specific timeframes for processing leases  
3       and applications in accordance with the best man-  
4       agement practices, including deadlines for—

5               (A) approving or disapproving—

6                   (i) resource management plans and  
7                   related documents;

8                   (ii) lease applications;

9                   (iii) applications for permits to drill;

10                  and

11                   (iv) surface use plans; and

12               (B) related administrative appeals.

13       (c) IMPROVED ENFORCEMENT.—The Secretary and  
14       the Secretary Agriculture shall improve inspection and en-  
15       forcement of oil and gas activities, including enforcement  
16       of terms and conditions in permits to drill on land under  
17       the jurisdiction of the Secretary and the Secretary of Agri-  
18       culture, respectively.

19       (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
20       tion to amounts made available to carry out activities re-  
21       lating to oil and gas leasing on public land administered  
22       by the Secretary and National Forest System land admin-  
23       istered by the Secretary of Agriculture, there are author-  
24       ized to be appropriated for each of fiscal years 2006  
25       through 2010—

1 (1) to the Secretary, acting through the Direc-  
 2 tor of the Bureau of Land Management—

3 (A) \$40,000,000 to carry out subsections  
 4 (a)(1) and (b); and

5 (B) \$20,000,000 to carry out subsection  
 6 (c);

7 (2) to the Secretary, acting through the Direc-  
 8 tor of the United States Fish and Wildlife Service,  
 9 \$5,000,000 to carry out subsection (a)(1); and

10 (3) to the Secretary of Agriculture, acting  
 11 through the Chief of the Forest Service, \$5,000,000  
 12 to carry out subsections (a)(2) and (c).

13 **SEC. 343. CONSULTATION REGARDING OIL AND GAS LEAS-**  
 14 **ING ON PUBLIC LAND.**

15 (a) IN GENERAL.—Not later than 180 days after the  
 16 date of enactment of this Act, the Secretary of the Interior  
 17 and the Secretary of Agriculture shall enter into a memo-  
 18 randum of understanding regarding oil and gas leasing  
 19 on—

20 (1) public land under the jurisdiction of the  
 21 Secretary of the Interior; and

22 (2) National Forest System land under the ju-  
 23 risdiction of the Secretary of Agriculture.

24 (b) CONTENTS.—The memorandum of understanding  
 25 shall include provisions that—

1           (1) establish administrative procedures and  
2 lines of authority that ensure timely processing of—

3               (A) oil and gas lease applications;

4               (B) surface use plans of operation, includ-  
5 ing steps for processing surface use plans; and

6               (C) applications for permits to drill, includ-  
7 ing applications for permits to drill consistent  
8 with applicable timelines;

9           (2) eliminate duplication of effort by providing  
10 for coordination of planning and environmental com-  
11 pliance efforts;

12           (3) ensure that lease stipulations are—

13               (A) applied consistently;

14               (B) coordinated between agencies; and

15               (C) only as restrictive as necessary to pro-  
16 tect the resource for which the stipulations are  
17 applied;

18           (4) establish a joint data retrieval system that  
19 is capable of—

20               (A) tracking applications and formal re-  
21 quests made in accordance with procedures of  
22 the Federal onshore oil and gas leasing pro-  
23 gram; and

24               (B) providing information regarding the  
25 status of the applications and requests within

1 the Department of the Interior and the Depart-  
2 ment of Agriculture; and

3 (5) establish a joint geographic information sys-  
4 tem mapping system for use in—

5 (A) tracking surface resource values to aid  
6 in resource management; and

7 (B) processing surface use plans of oper-  
8 ation and applications for permits to drill.

9 **SEC. 344. PILOT PROJECT TO IMPROVE FEDERAL PERMIT**  
10 **COORDINATION.**

11 (a) ESTABLISHMENT.—The Secretary of the Interior  
12 (referred to in this section as the “Secretary”) shall estab-  
13 lish a Federal Permit Streamlining Pilot Project (referred  
14 to in this section as the “Pilot Project”).

15 (b) MEMORANDUM OF UNDERSTANDING.—

16 (1) IN GENERAL.—Not later than 90 days after  
17 the date of enactment of this Act, the Secretary  
18 shall enter into a memorandum of understanding for  
19 purposes of this section with—

20 (A) the Secretary of Agriculture;

21 (B) the Administrator of the Environ-  
22 mental Protection Agency; and

23 (C) the Chief of Engineers.

24 (2) STATE PARTICIPATION.—The Secretary  
25 may request that the Governors of Wyoming, Mon-



1 tana, Colorado, Utah, and New Mexico be signato-  
2 ries to the memorandum of understanding.

3 (c) DESIGNATION OF QUALIFIED STAFF.—

4 (1) IN GENERAL.—Not later than 30 days after  
5 the date of the signing of the memorandum of un-  
6 derstanding under subsection (b), all Federal signa-  
7 tory parties shall, if appropriate, assign to each of  
8 the field offices identified in subsection (d) an em-  
9 ployee who has expertise in the regulatory issues re-  
10 lating to the office in which the employee is em-  
11 ployed, including, as applicable, particular expertise  
12 in—

13 (A) the consultations and the preparation  
14 of biological opinions under section 7 of the En-  
15 dangered Species Act of 1973 (16 U.S.C.  
16 1536);

17 (B) permits under section 404 of Federal  
18 Water Pollution Control Act (33 U.S.C. 1344);

19 (C) regulatory matters under the Clean Air  
20 Act (42 U.S.C. 7401 et seq.);

21 (D) planning under the National Forest  
22 Management Act of 1976 (16 U.S.C. 472a et  
23 seq.); and

1 (E) the preparation of analyses under the  
2 National Environmental Policy Act of 1969 (42  
3 U.S.C. 4321 et seq.).

4 (2) DUTIES.—Each employee assigned under  
5 paragraph (1) shall—

6 (A) not later than 90 days after the date  
7 of assignment, report to the Bureau of Land  
8 Management Field Managers in the office to  
9 which the employee is assigned;

10 (B) be responsible for all issues relating to  
11 the jurisdiction of the home office or agency of  
12 the employee; and

13 (C) participate as part of the team of per-  
14 sonnel working on proposed energy projects,  
15 planning, and environmental analyses.

16 (d) FIELD OFFICES.—The following Bureau of Land  
17 Management Field Offices shall serve as the Pilot Project  
18 offices:

19 (1) Rawlins, Wyoming.

20 (2) Buffalo, Wyoming.

21 (3) Miles City, Montana

22 (4) Farmington, New Mexico.

23 (5) Carlsbad, New Mexico.

24 (6) Grand Junction/Glenwood Springs, Colo-  
25 rado.

1 (7) Vernal, Utah.

2 (e) REPORTS.—Not later than 3 years after the date  
3 of enactment of this Act, the Secretary shall submit to  
4 Congress a report that—

5 (1) outlines the results of the Pilot Project to  
6 date; and

7 (2) makes a recommendation to the President  
8 regarding whether the Pilot Project should be imple-  
9 mented throughout the United States.

10 (f) ADDITIONAL PERSONNEL.—The Secretary shall  
11 assign to each field office identified in subsection (d) any  
12 additional personnel that are necessary to ensure the ef-  
13 fective implementation of—

14 (1) the Pilot Project; and

15 (2) other programs administered by the field of-  
16 fices, including inspection and enforcement relating  
17 to energy development on Federal land, in accord-  
18 ance with the multiple use mandate of the Federal  
19 Land Policy and Management Act of 1976 (43  
20 U.S.C. 1701 et seq).

21 (g) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There are authorized to be  
23 appropriated to the Secretary such sums as are nec-  
24 essary to carry out this section for each of fiscal  
25 years 2006 through 2010.

1           (2) TRANSFER OF FUNDS.—For the purposes  
 2           of coordination and processing of oil and gas use au-  
 3           thorizations on Federal land under the administra-  
 4           tion of the Pilot Project offices identified in sub-  
 5           section (d), the Secretary may authorize the expendi-  
 6           ture or transfer of such funds as are necessary to—

7                   (A) the United States Fish and Wildlife  
 8           Service;

9                   (B) the Bureau of Indian Affairs;

10                  (C) the Forest Service;

11                  (D) the Environmental Protection Agency;

12                  (E) the Corps of Engineers; and

13                  (F) the States of Wyoming, Montana, Col-  
 14           orado, Utah, and New Mexico.

15           (h) SAVINGS PROVISION.—Nothing in this section af-  
 16           fects—

17                   (1) the operation of any Federal or State law;

18           or

19                   (2) any delegation of authority made by the  
 20           head of a Federal agency whose employees are par-  
 21           ticipating in the Pilot Project.

22   **SEC. 345. ENERGY FACILITY RIGHTS-OF-WAYS AND COR-**  
 23           **RIDORS ON FEDERAL LAND.**

24           (a) DEFINITIONS.—In this section:

1           (1) CORRIDOR.—In this section and section 503  
2       of the Federal Land Policy and Management Act of  
3       1976 (43 U.S.C. 1763), the term “corridor”  
4       means—

5           (A) a linear strip of land—

6               (i) with a width determined with con-  
7               sideration given to technological, environ-  
8               mental, and topographical factors; and

9               (ii) that contains, or may in the fu-  
10              ture contain, 1 or more utility facilities;

11          (B) a land use designation that is estab-  
12          lished—

13               (i) by law;

14               (ii) by order of the head of a Federal  
15          agency;

16               (iii) through the land use planning  
17          process; or

18               (iv) by other management decision;

19          and

20          (C) a designation made for the purpose of  
21          establishing the preferred location of a compat-  
22          ible utility facility.

23       (2) FEDERAL AUTHORIZATION.—

24           (A) IN GENERAL.—The term “Federal au-  
25          thorization” means any authorization required

1 under Federal law in order to site a utility facil-  
2 ity.

3 (B) INCLUSIONS.—The term “Federal au-  
4 thorization” includes such permits, special use  
5 authorizations, certifications, opinions, or other  
6 approvals as may be required, that are issued  
7 by a Federal agency.

8 (3) FEDERAL LAND.—

9 (A) IN GENERAL.—The term “Federal  
10 land” means all land owned by the United  
11 States.

12 (B) EXCLUSIONS.—The term “Federal  
13 land” does not include land—

14 (i) within the National Park System;

15 (ii) within the National Wilderness  
16 Preservation System;

17 (iii) designated as a National Monu-  
18 ment;

19 (iv) held in trust for an Indian or In-  
20 dian tribe; or

21 (v) on the outer Continental Shelf.

22 (4) UTILITY CORRIDOR.—The term “utility cor-  
23 ridor” means any linear strip of land across Federal  
24 land referred to in subsection (b) of approved width,

1 but limited for use by a utility facility by techno-  
2 logical, environmental, or topographical factors.

3 (5) UTILITY FACILITY.—The term “utility facil-  
4 ity” means any privately-, publicly-, or cooperatively-  
5 owned line, facility, or system—

6 (A) for the transportation of—

7 (i) oil or natural gas, synthetic liquid  
8 or gaseous fuel, or any refined product  
9 produced from any of those materials; or

10 (ii) products in support of production,  
11 or for storage or terminal facilities in con-  
12 nection with production; or

13 (B) for the generation, transmission, or  
14 distribution of electric energy.

15 (b) UTILITY CORRIDORS.—

16 (1) IN GENERAL.—Not later than 2 years after  
17 the document described in subsection (c)(3) is com-  
18 pleted, the Secretary of the Interior, with respect to  
19 public lands (as defined in section 103(e) of the  
20 Federal Land Policy and Management Act of 1976  
21 (43 U.S.C. 1702(e)), and the Secretary of Agri-  
22 culture, with respect to National Forest System  
23 land, shall designate utility corridors pursuant to—

24 (A) section 503 of the Federal Land Policy  
25 and Management Act (43 U.S.C. 1763) in the

1           11 contiguous Western States (as identified in  
2           section 103(o) of that Act (43 U.S.C.  
3           1702(o))); and

4                   (B) relevant departmental and agency land  
5           use and resource management plans or equiva-  
6           lent plans.

7           (2) COORDINATION.—The Secretary shall co-  
8           ordinate with affected Federal agencies to jointly—

9                   (A) identify potential utility corridors on  
10          Federal land in States not described in para-  
11          graph (1)(A); and

12                   (B) develop a schedule for the designation,  
13          environmental review, and incorporation of the  
14          utility corridors into relevant departmental and  
15          agency land use and resource management  
16          plans or equivalent plans.

17          (3) SPECIFICATIONS OF CORRIDOR.—A corridor  
18          designated under this section shall specify the cen-  
19          terline, width, and compatible uses of the corridor.

20          (c) FEDERAL PERMIT COORDINATION.—

21                   (1) IN GENERAL.—The Secretary shall enter  
22          into a memorandum of understanding with the Sec-  
23          retary of the Interior, the Secretary of Agriculture,  
24          and the Secretary of Defense for the purpose of co-  
25          ordinating all applicable Federal authorizations and



1 environmental reviews relating to a proposed or ex-  
2 isting utility facility.

3 (2) ADDITIONAL ENTITIES.—To the maximum  
4 extent practicable under applicable law, the Sec-  
5 retary shall coordinate the process developed  
6 through the memorandum of understanding under  
7 paragraph (1) with any Indian tribes, multistate en-  
8 tities, and State agencies that are responsible for  
9 conducting any separate permitting and environ-  
10 mental reviews of the affected utility facility to en-  
11 sure timely review and permit decisions.

12 (3) CONTENTS OF MOU.—The memorandum of  
13 understanding under paragraph (1) shall provide  
14 for—

15 (A) coordination, among affected Federal  
16 agencies, to ensure that the necessary Federal  
17 authorizations—

18 (i) are conducted concurrently with  
19 applicable State siting processes; and

20 (ii) are considered within a specific  
21 time frame identified within the memo-  
22 randum of understanding;

23 (B) an agreement among the affected Fed-  
24 eral agencies to prepare a programmatic envi-  
25 ronmental review document to be used as the

1           underlying basis for all Federal authorization  
2           decisions; and

3           (C) a process to expedite applications to  
4           construct or modify utility facilities within util-  
5           ity corridors.

6 **SEC. 346. OIL SHALE LEASING.**

7       (a) **DECLARATION OF POLICY.**—Congress declares  
8 that it is the policy of the United States that—

9           (1) United States oil shale and oil sands are  
10          strategically important domestic resources that  
11          should be developed through methods that help re-  
12          duce the growing dependence of the United States  
13          on politically and economically unstable sources of  
14          foreign oil imports;

15          (2) the development of oil shale and oil sands,  
16          for research and commercial development, should be  
17          conducted in an environmentally sound and economi-  
18          cally feasible manner; and

19          (3) development described in paragraph (2)  
20          should occur at a deliberate pace, with an emphasis  
21          on sustainability, to benefit the United States while  
22          taking into account affected States and commu-  
23          nities.

24       (b) **LEASING FOR RESEARCH AND DEVELOPMENT.**—

1           (1) IN GENERAL.—In accordance with section  
2           21 of the Mineral Leasing Act (30 U.S.C. 241) and  
3           any other applicable law, except as provided in this  
4           section, not later than 1 year after the date of enact-  
5           ment of this Act, from land otherwise available for  
6           leasing, the Secretary of the Interior (referred to in  
7           this section as the “Secretary”) shall, for a period  
8           determined by the Secretary, make available for  
9           leasing such land as the Secretary considers to be  
10          necessary to conduct research and development ac-  
11          tivities with respect to innovative technologies for  
12          the recovery of shale oil from oil shale resources on  
13          public land.

14          (2) APPLICATION.—The Secretary may offer to  
15          lease the land to persons that submit an application  
16          for the lease, if the Secretary determines that there  
17          is no competitive interest in the land.

18          (3) ADMINISTRATION.—In carrying out this  
19          subsection, the Secretary shall—

20                (A) provide for environmentally sound re-  
21                search and development of oil shale;

22                (B) provide for an appropriate return to  
23                the public, as determined by the Secretary;

24                (C) before carrying out any activity that  
25                will disturb the surface of land, provide for an

1 adequate bond, surety, or other financial ar-  
2 rangement to ensure reclamation;

3 (D) provide for a primary lease term of 10  
4 years, after which the lease term may be ex-  
5 tended if the Secretary determines that diligent  
6 research and development activities are occur-  
7 ring on the land leased;

8 (E) require the owner or operator of a  
9 project under this subsection, within such pe-  
10 riod as the Secretary may determine—

11 (i) to submit a plan of operations;

12 (ii) to develop an environmental pro-  
13 tection plan; and

14 (iii) to undertake diligent research  
15 and development activities;

16 (F) ensure that leases under this section  
17 are not larger than necessary to conduct re-  
18 search and development activities under an ap-  
19 plication under paragraph (2);

20 (G) provide for consultation with affected  
21 State and local governments; and

22 (H) provide for such requirements as the  
23 Secretary determines to be in the public inter-  
24 est.

1           (4) MONEYS RECEIVED.—Any moneys received  
2           from a leasing activity under this subsection shall be  
3           paid in accordance with section 35 of the Mineral  
4           Leasing Act (30 U.S.C. 191).

5           (c) PROGRAMMATIC ENVIRONMENTAL IMPACT  
6           STATEMENT.—Not later than 18 months after the date  
7           of enactment of this Act, in accordance with section  
8           102(2)(C) of the National Environmental Policy Act of  
9           1969 (42 U.S.C. 4332(2)(C)), the Secretary shall com-  
10          plete a programmatic environmental impact statement  
11          that analyzes potential leasing for commercial develop-  
12          ment of oil shale resources on public land.

13          (d) ANALYSIS OF POTENTIAL LEASING PROGRAM.—

14               (1) IN GENERAL.—Not later than 18 months  
15               after the date of enactment of this Act, the Sec-  
16               retary shall submit to Congress a report (including  
17               recommendations) analyzing a potential leasing pro-  
18               gram for the commercial development of oil shale on  
19               public land.

20               (2) INCLUSIONS.—The report under paragraph  
21               (1) shall include—

22                       (A) an analysis of technologies and re-  
23                       search and development programs for the pro-  
24                       duction of oil and other materials from oil shale

1 and tar sands in existence on the date on which  
2 the report is prepared;

3 (B) an analysis of—

4 (i) whether leases under the program  
5 should be issued on a competitive basis;

6 (ii) the term of the leases;

7 (iii) the maximum size of the leases;

8 (iv) the use and distribution of bonus  
9 bid lease payments;

10 (v) the royalty rate to be applied, in-  
11 cluding whether a sliding scale royalty rate  
12 should be used;

13 (vi) whether an opportunity should be  
14 provided to convert research and develop-  
15 ment leases into leases for commercial de-  
16 velopment, including the terms and condi-  
17 tions that should apply to the conversion;

18 (vii) the maximum number of leases  
19 and maximum acreage to be leased under  
20 the leasing program to an individual; and

21 (vii) any infrastructure required to  
22 support oil shale development in industry  
23 and communities; and

24 (C) an analysis, developed in conjunction  
25 with the appropriate State water resource agen-

1           cies, of the demand for, and availability of,  
 2           water with respect to the development of oil  
 3           shale.

4           (3) PUBLIC PARTICIPATION.—In preparing the  
 5           report under this subsection, the Secretary shall pro-  
 6           vide notice to, and solicit comment from—

7                   (A) the public;

8                   (B) representatives of local governments;

9                   (C) representatives of industry; and

10                  (D) other interested parties.

11           (4) PARTICIPATION BY CERTAIN STATES.—In  
 12           preparing the report under this subsection, the Sec-  
 13           retary shall—

14                   (A) provide notice to, and solicit comment  
 15                   from, the Governors of the States of Colorado,  
 16                   Utah, and Wyoming; and

17                   (B) incorporate into the report submitted  
 18                   to Congress under paragraph (1) any response  
 19                   of the Secretary to those comments.

20           (e) NATIONAL OIL SHALE ASSESSMENT.—

21                   (1) ASSESSMENT.—

22                   (A) IN GENERAL.—The Secretary shall  
 23                   carry out a national assessment of oil shale re-  
 24                   sources for the purposes of evaluating and map-

ping oil shale deposits, in the geographic areas described in subparagraph (B).

(B) GEOGRAPHIC AREAS.—The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are—

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales of the eastern United States; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale, as determined by the Secretary.

(2) USE OF STATE SURVEYS AND UNIVERSITIES.—In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State-administered geological survey or university.

(f) STATE WATER RIGHTS.—Nothing in this section preempts or affects any State water law or interstate compact relating to water.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.



## 1       **Subtitle D—Coastal Programs**

### 2   **SEC. 371. COASTAL IMPACT ASSISTANCE PROGRAM.**

3       Section 31 of the Outer Continental Shelf Lands Act  
4   (43 U.S.C. 1356a) is amended to read as follows:

#### 5   **“SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.**

6       “(a) DEFINITIONS.—In this section:

7           “(1) COASTAL POLITICAL SUBDIVISION.—The  
8       term ‘coastal political subdivision’ means a political  
9       subdivision of a coastal State any part of which po-  
10      litical subdivision is—

11           “(A) within the coastal zone (as defined in  
12       section 304 of the Coastal Zone Management  
13       Act of 1972 (16 U.S.C. 1453)) of the coastal  
14       State; and

15           “(B) not more than 200 miles from the ge-  
16       ographic center of any leased tract.

17           “(2) COASTAL POPULATION.—The term ‘coastal  
18       population’ means the population, as determined by  
19       the most recent official data of the Census Bureau,  
20       of each political subdivision any part of which lies  
21       within the designated coastal boundary of a State  
22       (as defined in a State’s coastal zone management  
23       program under the Coastal Zone Management Act of  
24       1972 (16 U.S.C. 1451 et seq.)).

1           “(3) COASTAL STATE.—The term ‘coastal  
2       State’ has the meaning given the term in section  
3       304 of the Coastal Zone Management Act of 1972  
4       (16 U.S.C. 1453).

5           “(4) COASTLINE.—The term ‘coastline’ has the  
6       meaning given the term ‘coast line’ in section 2 of  
7       the Submerged Lands Act (43 U.S.C. 1301).

8           “(5) DISTANCE.—The term ‘distance’ means  
9       the minimum great circle distance, measured in stat-  
10      ute miles.

11          “(6) LEASED TRACT.—The term ‘leased tract’  
12      means a tract that is subject to a lease under section  
13      6 or 8 for the purpose of drilling for, developing,  
14      and producing oil or natural gas resources.

15          “(7) LEASING MORATORIA.—The term ‘leasing  
16      moratoria’ means the prohibitions on preleasing,  
17      leasing, and related activities on any geographic area  
18      of the outer Continental Shelf as contained in sec-  
19      tions 107 through 109 of division E of the Consoli-  
20      dated Appropriations Act, 2005 (Public Law 108–  
21      447; 118 Stat. 3063).

22          “(8) POLITICAL SUBDIVISION.—The term ‘polit-  
23      ical subdivision’ means the local political jurisdiction  
24      immediately below the level of State government, in-  
25      cluding counties, parishes, and boroughs.

1 “(9) PRODUCING STATE.—

2 “(A) IN GENERAL.—The term ‘producing  
3 State’ means a coastal State that has a coastal  
4 seaward boundary within 200 miles of the geo-  
5 graphic center of a leased tract within any area  
6 of the outer Continental Shelf.

7 “(B) EXCLUSION.—The term ‘producing  
8 State’ does not include a producing State, a  
9 majority of the coastline of which is subject to  
10 leasing moratoria.

11 “(10) QUALIFIED OUTER CONTINENTAL SHELF  
12 REVENUES.—

13 “(A) IN GENERAL.—The term ‘qualified  
14 Outer Continental Shelf revenues’ means all  
15 amounts received by the United States from  
16 each leased tract or portion of a leased tract—

17 “(i) lying—

18 “(I) seaward of the zone covered  
19 by section 8(g); or

20 “(II) within that zone, but to  
21 which section 8(g) does not apply; and

22 “(ii) the geographic center of which  
23 lies within a distance of 200 miles from  
24 any part of the coastline of any coastal  
25 State.

1           “(B) INCLUSIONS.—The term ‘qualified  
 2           Outer Continental Shelf revenues’ includes  
 3           bonus bids, rents, royalties (including payments  
 4           for royalty taken in kind and sold), net profit  
 5           share payments, and related late-payment inter-  
 6           est from natural gas and oil leases issued under  
 7           this Act.

8           “(C) EXCLUSION.—The term ‘qualified  
 9           Outer Continental Shelf revenues’ does not in-  
 10          clude any revenues from a leased tract or por-  
 11          tion of a leased tract that is located in a geo-  
 12          graphic area subject to a leasing moratorium on  
 13          January 1, 2005.

14          “(b) PAYMENTS TO PRODUCING STATES AND COAST-  
 15          AL POLITICAL SUBDIVISIONS.—

16               “(1) IN GENERAL.—From revenues deposited  
 17          under section 9, there is authorized to be appro-  
 18          priated to the Secretary to disburse funds to pro-  
 19          ducing States and coastal political subdivisions in  
 20          accordance with this section \$500,000,000 for each  
 21          of fiscal years 2006 through 2010.

22               “(2) DISBURSEMENT.—In each fiscal year, the  
 23          Secretary shall, subject to appropriations, disburse  
 24          to each producing State for which the Secretary has  
 25          approved a plan under subsection (c), and to coastal

1 political subdivisions under paragraph (5), such  
2 funds as are allocated to the producing State or  
3 coastal political subdivision, respectively, under this  
4 section for the fiscal year.

5 “(3) TRANSFER OF AMOUNTS.—

6 “(A) IN GENERAL.—From qualified outer  
7 Continental Shelf revenues deposited in the  
8 Treasury under this Act for a fiscal year, sub-  
9 ject to appropriations, the Secretary of the  
10 Treasury shall transfer to the Secretary to pro-  
11 vide disbursements to producing States and  
12 coastal political subdivisions under this section  
13 \$500,000,000 for each of fiscal years 2006  
14 through 2010.

15 “(B) DISBURSEMENT.—For each fiscal  
16 year, the Secretary shall, subject to the avail-  
17 ability of appropriations under subparagraph  
18 (A), disburse to each producing State for which  
19 the Secretary has an approved plan under para-  
20 graph (4), and to coastal political subdivisions  
21 under paragraph (5), the funds allocated to the  
22 producing State or coastal political subdivision  
23 under this section for the fiscal year.

24 “(4) ALLOCATION AMONG PRODUCING  
25 STATES.—

“(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

“(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

“(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

“(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

“(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2006 through 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2005; and

“(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 through 2011 shall be determined using qualified outer Continental

1 Shelf revenues received for fiscal year  
2 2008.

3 “(C) MULTIPLE PRODUCING STATES.—In  
4 a case in which more than 1 producing State is  
5 located within 200 miles of any portion of a  
6 leased tract, the amount allocated to each pro-  
7 ducing State for the leased tract shall be in-  
8 versely proportional to the distance between—

9 “(i) the nearest point on the coastline  
10 of the producing State; and

11 “(ii) the geographic center of the  
12 leased tract.

13 “(D) MINIMUM ALLOCATION.—The  
14 amount allocated to a producing State under  
15 subparagraph (A) shall be at least 1 percent of  
16 the amounts available under paragraph (1).

17 “(5) PAYMENTS TO COASTAL POLITICAL SUB-  
18 DIVISIONS.—

19 “(A) IN GENERAL.—The Secretary shall  
20 pay 35 percent of the amount allocated under  
21 paragraph (3) to the coastal political subdivi-  
22 sions in the producing State.

23 “(B) FORMULA.—Of the amount paid by  
24 the Secretary to coastal political subdivisions  
25 under subparagraph (A)—

1 “(i) 25 percent shall be allocated to  
2 each coastal political subdivision in the  
3 proportion that—

4 “(I) the coastal population of the  
5 coastal political subdivision; bears to

6 “(II) the coastal population of all  
7 coastal political subdivisions in the  
8 producing State;

9 “(ii) 25 percent shall be allocated to  
10 each coastal political subdivision in the  
11 proportion that—

12 “(I) the number of miles of  
13 coastline of the coastal political sub-  
14 division; bears to

15 “(II) the number of miles of  
16 coastline of all coastal political sub-  
17 divisions in the producing State; and

18 “(iii) 50 percent shall be allocated in  
19 amounts that are inversely proportional to  
20 the respective distances between the points  
21 in each coastal political subdivision that  
22 are closest to the geographic center of each  
23 leased tract, as determined by the Sec-  
24 retary.



1           “(C) EXCEPTION FOR THE STATE OF LOU-  
2 ISIANA.—For the purposes of subparagraph  
3 (B)(ii), the coastline for coastal political sub-  
4 divisions in the State of Louisiana without a  
5 coastline shall be the average length of the  
6 coastline of all coastal political subdivisions  
7 with a coastline in the State of Louisiana.

8           “(D) EXCEPTION FOR THE STATE OF  
9 ALASKA.—For the purposes of carrying out  
10 subparagraph (B)(iii) in the State of Alaska,  
11 the amounts allocated shall be divided equally  
12 among the 2 coastal political subdivisions that  
13 are closest to the geographic center of a leased  
14 tract.

15           “(E) EXCLUSION OF CERTAIN LEASED  
16 TRACTS.—For purposes of subparagraph  
17 (B)(iii), a leased tract or portion of a leased  
18 tract shall be excluded if the tract or portion of  
19 a leased tract is located in a geographic area  
20 subject to a leasing moratorium on January 1,  
21 2005.

22           “(6) NO APPROVED PLAN.—

23           “(A) IN GENERAL.—Subject to subpara-  
24 graph (B) and except as provided in subpara-  
25 graph (C), in a case in which any amount allo-

1 cated to a producing State or coastal political  
 2 subdivision under paragraph (4) or (5) is not  
 3 disbursed because the producing State does not  
 4 have in effect a plan that has been approved by  
 5 the Secretary under subsection (c), the Sec-  
 6 retary shall allocate the undisbursed amount  
 7 equally among all other producing States.

8 “(B) RETENTION OF ALLOCATION.—The  
 9 Secretary shall hold in escrow an undisbursed  
 10 amount described in subparagraph (A) until  
 11 such date as the final appeal regarding the dis-  
 12 approval of a plan submitted under subsection  
 13 (c) is decided.

14 “(C) WAIVER.—The Secretary may waive  
 15 subparagraph (A) with respect to an allocated  
 16 share of a producing State and hold the allo-  
 17 cable share in escrow if the Secretary deter-  
 18 mines that the producing State is making a  
 19 good faith effort to develop and submit, or up-  
 20 date, a plan in accordance with subsection (c).

21 “(c) COASTAL IMPACT ASSISTANCE PLAN.—

22 “(1) SUBMISSION OF STATE PLANS.—

23 “(A) IN GENERAL.—Not later than July 1,  
 24 2008, the Governor of a producing State shall

1 submit to the Secretary a coastal impact assist-  
 2 ance plan.

3 “(B) PUBLIC PARTICIPATION.—In carrying  
 4 out subparagraph (A), the Governor shall solicit  
 5 local input and provide for public participation  
 6 in the development of the plan.

7 “(2) APPROVAL.—

8 “(A) IN GENERAL.—The Secretary shall  
 9 approve a plan of a producing State submitted  
 10 under paragraph (1) before disbursing any  
 11 amount to the producing State, or to a coastal  
 12 political subdivision located in the producing  
 13 State, under this section.

14 “(B) COMPONENTS.—The Secretary shall  
 15 approve a plan submitted under paragraph (1)  
 16 if—

17 “(i) the Secretary determines that the  
 18 plan is consistent with the uses described  
 19 in subsection (d); and

20 “(ii) the plan contains—

21 “(I) the name of the State agen-  
 22 cy that will have the authority to rep-  
 23 resent and act on behalf of the pro-  
 24 ducing State in dealing with the Sec-  
 25 retary for purposes of this section;

1           “(II) a program for the imple-  
2           mentation of the plan that describes  
3           how the amounts provided under this  
4           section to the producing State will be  
5           used;

6           “(III) for each coastal political  
7           subdivision that receives an amount  
8           under this section—

9                   “(aa) the name of a contact  
10                  person; and

11                   “(bb) a description of how  
12                  the coastal political subdivision  
13                  will use amounts provided under  
14                  this section;

15           “(IV) a certification by the Gov-  
16           ernor that ample opportunity has been  
17           provided for public participation in  
18           the development and revision of the  
19           plan; and

20           “(V) a description of measures  
21           that will be taken to determine the  
22           availability of assistance from other  
23           relevant Federal resources and pro-  
24           grams.

1           “(3) AMENDMENT.—Any amendment to a plan  
2 submitted under paragraph (1) shall be—

3           “(A) developed in accordance with this  
4 subsection; and

5           “(B) submitted to the Secretary for ap-  
6 proval or disapproval under paragraph (4).

7           “(4) PROCEDURE.—

8           “(A) IN GENERAL.—Except as provided in  
9 subparagraph (B), not later than 90 days after  
10 the date on which a plan or amendment to a  
11 plan is submitted under paragraph (1) or (3),  
12 the Secretary shall approve or disapprove the  
13 plan or amendment.

14           “(B) EXCEPTION.—For fiscal year 2006,  
15 the Secretary shall approve or disapprove a  
16 plan submitted under paragraph (1) not later  
17 than December 31, 2006.

18           “(d) AUTHORIZED USES.—

19           “(1) IN GENERAL.—A producing State or coast-  
20 al political subdivision shall use all amounts received  
21 under this section, including any amount deposited  
22 in a trust fund that is administered by the State or  
23 coastal political subdivision and dedicated to uses  
24 consistent with this section, in accordance with all

1 applicable Federal and State law, only for 1 or more  
2 of the following purposes:

3 “(A) Projects and activities for the con-  
4 servation, protection, or restoration of coastal  
5 areas, including wetland.

6 “(B) Mitigation of damage to fish, wildlife,  
7 or natural resources.

8 “(C) Planning assistance and the adminis-  
9 trative costs of complying with this section.

10 “(D) Implementation of a federally-ap-  
11 proved marine, coastal, or comprehensive con-  
12 servation management plan.

13 “(E) Mitigation of the impact of outer  
14 Continental Shelf activities through funding of  
15 onshore infrastructure projects and public serv-  
16 ice needs.

17 “(2) COMPLIANCE WITH AUTHORIZED USES.—

18 If the Secretary determines that any expenditure  
19 made by a producing State or coastal political sub-  
20 division is not consistent with this subsection, the  
21 Secretary shall not disburse any additional amount  
22 under this section to the producing State or the  
23 coastal political subdivision until such time as all  
24 amounts obligated for unauthorized uses have been  
25 repaid or reobligated for authorized uses.”.

1                   **Subtitle E—Natural Gas**

2   **SEC. 381. EXPORTATION OR IMPORTATION OF NATURAL**  
3                   **GAS.**

4           Section 3 of the Natural Gas Act (15 U.S.C. 717b)  
5 is amended by adding at the end the following:

6           “(d) Except as specifically provided in this part, noth-  
7 ing in this Act affects the rights of States under—

8                   “(1) the Coastal Zone Management Act of 1972  
9                   (16 U.S.C. 1451 et seq.)

10                   “(2) the Clean Air Act (42 U.S.C. 7401 et  
11                   seq.); or

12                   “(3) the Federal Water Pollution Control Act  
13                   (33 U.S.C. 1251 et seq.).

14           “(e)(1) No facilities located onshore or in State wa-  
15 ters for the import of natural gas from a foreign country,  
16 or the export of natural gas to a foreign country, shall  
17 be sited, constructed, expanded, or operated, unless the  
18 Commission has authorized such acts or operations.

19           “(2) The Commission shall have the exclusive author-  
20 ity to approve or deny an application for the siting, con-  
21 struction, expansion, or operation of facilities located on-  
22 shore or in State waters for the import of natural gas from  
23 a foreign county or the export of natural gas to a foreign  
24 country.

1       “(3)(A) Except as provided in subparagraph (B), the  
2 Commission may approve an application described in para-  
3 graph (2), in whole or part, with such modifications and  
4 upon such terms and conditions as the Commission finds  
5 appropriate.

6       “(B) The Commission shall not—

7           “(i) deny an application solely on the basis that  
8 the applicant proposes to use the liquefied natural  
9 gas import facility exclusively or partially for gas  
10 that the applicant or an affiliate of the applicant will  
11 supply to the facility; or

12          “(ii) condition an order on—

13           “(I) a requirement that the liquefied nat-  
14 ural gas import facility offer service to cus-  
15 tomers other than the applicant, or any affiliate  
16 of the applicant, securing the order;

17           “(II) any regulation of the rates, charges,  
18 terms, or conditions of service of the liquefied  
19 natural gas import facility; or

20           “(III) a requirement to file with the Com-  
21 mission schedules or contracts related to the  
22 rates, charges, terms, or conditions of service of  
23 the liquefied natural gas import facility.

24       “(4) An order issued for a liquefied natural gas im-  
25 port facility that also offers service to customers on an



1 open access basis shall not result in subsidization of ex-  
2 pansion capacity by existing customers, degradation of  
3 service to existing customers, or undue discrimination  
4 against existing customers as to their terms or conditions  
5 of service at the facility, as all of those terms are defined  
6 by the Commission.”.

7 **SEC. 382. NEW NATURAL GAS STORAGE FACILITIES.**

8 Section 4 of the Natural Gas Act (15 U.S.C. 717c)  
9 is amended by adding at the end the following:

10 “(f)(1) In exercising its authority under this Act or  
11 the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et  
12 seq.), the Commission may authorize a natural gas com-  
13 pany (or any person that will be a natural gas company  
14 on completion of any proposed construction) to provide  
15 storage and storage-related services at market-based rates  
16 for new storage capacity placed in service after the date  
17 of enactment of the Energy Policy Act of 2005, notwith-  
18 standing the fact that the company is unable to dem-  
19 onstrate that the company lacks market power, if the  
20 Commission determines that—

21 “(A) market-based rates are in the public inter-  
22 est and necessary to encourage the construction of  
23 storage capacity in areas needing storage services;  
24 and

25 “(B) customers are adequately protected.

1 “(2) The Commission shall ensure that reasonable  
2 terms and conditions are in place to protect consumers.

3 “(3) If the Commission authorizes a natural gas com-  
4 pany to charge market-based rates under this subsection,  
5 the Commission shall review periodically (but not more  
6 frequently than triennially) whether the market-based rate  
7 is just, reasonable, and not unduly discriminatory or pref-  
8 erential.”.

9 **SEC. 383. PROCESS COORDINATION; HEARINGS; RULES OF**  
10 **PROCEDURES.**

11 Section 15 of the Natural Gas Act (15 U.S.C. 717n)  
12 is amended—

13 (1) by striking the section heading and insert-  
14 ing the following:

15 “PROCESS COORDINATION; HEARINGS; RULES OF  
16 PROCEDURE”;

17 (2) by redesignating subsections (a) and (b) as  
18 subsections (e) and (f), respectively;

19 (3) by striking “SEC. 15.” and inserting the fol-  
20 lowing:

21 “SEC. 15. (a) In this section, the term ‘Federal au-  
22 thorization’—

23 “(1) means any authorization required under  
24 Federal law with respect to an application for au-  
25 thorization under section 3 or a certificate of public  
26 convenience and necessity under section 7; and

1           “(2) includes any permits, special use author-  
2           izations, certifications, opinions, or other approvals  
3           as may be required under Federal law with respect  
4           to an application for authorization under section 3  
5           or a certificate of public convenience and necessity  
6           under section 7.

7           “(b)(1) With respect to an application for Federal au-  
8           thorization, the Commission shall, unless the Commission  
9           orders otherwise, be the lead agency for purposes of com-  
10          plying with the National Environmental Policy Act of  
11          1969 (42 U.S.C. 4321 et seq.).

12          “(2) As lead agency, the Commission, in consultation  
13          with affected agencies, shall prepare a single environ-  
14          mental review document, which shall be used as a basis  
15          for all decisions under Federal law on—

16               “(A) an application for authorization under sec-  
17          tion 3; or

18               “(B) a certificate of public convenience and ne-  
19          cessity under section 7.

20          “(c)(1) The Commission shall, in consultation with  
21          agencies responsible for Federal authorizations, and with  
22          due consideration of recommendations by the agencies, es-  
23          tablish a schedule for all Federal authorizations required  
24          to be completed before an application under section 3 or  
25          7 may be approved.

1       “(2) In establishing a schedule, the Commission shall  
2 comply with applicable schedules established by Federal  
3 law.

4       “(3) All Federal and State agencies with jurisdiction  
5 over natural gas infrastructure shall seek to coordinate  
6 their proceedings within the timeframes established by the  
7 Commission with respect to an application for authoriza-  
8 tion under section 3 or a certificate of public convenience  
9 and necessity under section 7.

10       “(d)(1) In a case in which an administrative agency  
11 or officer has failed to act by the deadline established by  
12 the Commission under this section for deciding whether  
13 to issue the authorization, the applicant or any State in  
14 which the facility would be located may file an appeal with  
15 the President, who shall, in consultation with the affected  
16 agency, take action on the pending application.

17       “(2) Based on the overall record and in consultation  
18 with the affected agency, the President may—

19               “(A) issue the necessary authorization with any  
20 appropriate conditions; or

21               “(B) deny the application.

22       “(3) Not later than 90 days after the filing of an  
23 appeal, the President shall issue a decision as to that ap-  
24 peal.

1 “(4) In making a decision under this subsection, the  
 2 President shall comply with applicable requirements of  
 3 Federal law, including—

4 “(A) the Endangered Species Act of 1973 (16  
 5 U.S.C. 1531 et seq.)

6 “(B) the Federal Water Pollution Control Act  
 7 (33 U.S.C. 1251 et seq.);

8 “(C) the National Forest Management Act of  
 9 1976 (16 U.S.C. 472a et seq.);

10 “(D) the National Environmental Policy Act of  
 11 1969 (42 U.S.C. 4321 et seq.);

12 “(E) the Federal Land Policy and Management  
 13 Act of 1976 (43 U.S.C. 1701 et seq.);

14 “(F) the Coastal Zone Management Act of  
 15 1972 (16 U.S.C. 1451 et seq.); and

16 “(G) the Clean Air Act (42 U.S.C. 7401 et  
 17 seq.).”.

18 **SEC. 384. PENALTIES.**

19 (a) CRIMINAL PENALTIES.—

20 (1) NATURAL GAS ACT.—Section 21 of the Nat-  
 21 ural Gas Act (15 U.S.C. 717t) is amended—

22 (A) in subsection (a)—

23 (i) by striking “\$5,000” and inserting  
 24 “\$1,000,000”; and

1 (ii) by striking “two years” and in-  
 2 serting “5 years”; and

3 (B) in subsection (b), by striking “\$500”  
 4 and inserting “\$50,000”.

5 (2) NATURAL GAS POLICY ACT OF 1978.—Sec-  
 6 tion 504(c) of the Natural Gas Policy Act of 1978  
 7 (15 U.S.C. 3414(c)) is amended—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking  
 10 “\$5,000” and inserting “\$1,000,000”;

11 (ii) in subparagraph (B), by striking  
 12 “two years” and inserting “5 years”; and

13 (B) in paragraph (2), by striking “\$500  
 14 for each violation” and inserting “\$50,000 for  
 15 each day on which the offense occurs”.

16 (b) CIVIL PENALTIES.—

17 (1) NATURAL GAS ACT.—The Natural Gas Act  
 18 (15 U.S.C. 717 et seq.) is amended—

19 (A) by redesignating sections 22 through  
 20 24 as sections 24 through 26, respectively; and

21 (B) by inserting after section 21 (15  
 22 U.S.C. 717t) the following:

23 “CIVIL PENALTY AUTHORITY

24 “SEC. 22. (a) Any person that violates this Act, or  
 25 any rule, regulation, restriction, condition, or order made  
 26 or imposed by the Commission under authority of this Act,

1 shall be subject to a civil penalty of not more than  
 2 \$1,000,000 per day per violation for as long as the viola-  
 3 tion continues.

4 “(b) The penalty shall be assessed by the Commission  
 5 after notice and opportunity for public hearing.

6 “(c) In determining the amount of a proposed pen-  
 7 alty, the Commission shall take into consideration the na-  
 8 ture and seriousness of the violation and the efforts to  
 9 remedy the violation.”.

10 (2) NATURAL GAS POLICY ACT OF 1978.—Sec-  
 11 tion 504(b)(6)(A) of the Natural Gas Policy Act of  
 12 1978 (15 U.S.C. 3414(b)(6)(A)) is amended—

13 (A) in clause (i), by striking “\$5,000” and  
 14 inserting “\$1,000,000”; and

15 (B) in clause (ii), by striking “\$25,000”  
 16 and inserting “\$1,000,000”.

17 **SEC. 385. MARKET MANIPULATION.**

18 The Natural Gas Act is amended by inserting after  
 19 section 4 (15 U.S.C. 717c) the following:

20 “PROHIBITION ON MARKET MANIPULATION

21 “SEC. 4A. It shall be unlawful for any entity, directly  
 22 or indirectly, to use or employ, in connection with the pur-  
 23 chase or sale of natural gas or the purchase or sale of  
 24 transportation services subject to the jurisdiction of the  
 25 Commission, any manipulative or deceptive device or con-  
 26 trivance (as those terms are used in section 10(b) of the

1 Securities Exchange Act of 1934 (15 U.S.C. 78j(b)) in  
2 contravention of such rules and regulations as the Com-  
3 mission may prescribe as necessary in the public interest  
4 or for the protection of natural gas ratepayers.”

5 **SEC. 386. NATURAL GAS MARKET TRANSPARENCY RULES.**

6 The Natural Gas Act (15 U.S.C. 717 et seq.) (as  
7 amended by section 385(b)(1)) is amended by inserting  
8 after section 22 the following:

9 “NATURAL GAS MARKET TRANSPARENCY RULES

10 “SEC. 23. (a)(1) The Commission may issue such  
11 rules as the Commission considers to be appropriate to  
12 establish an electronic information system to provide the  
13 Commission and the public with access to such informa-  
14 tion as is necessary to facilitate price transparency and  
15 participation in markets for the sale or transportation of  
16 natural gas in interstate commerce.

17 “(2) The system under paragraph (1) shall provide,  
18 on a timely basis, information about the availability and  
19 prices of natural gas sold at wholesale and in interstate  
20 commerce to the Commission, State commissions, buyers  
21 and sellers of wholesale natural gas, and the public.

22 “(3) The Commission may—

23 “(A) obtain information described in paragraph  
24 (2) from any market participant; and

25 “(B) rely on an entity other than the Commis-  
26 sion to receive and make public the information.



1       “(b)(1) Rules described in subsection (a)(1), if adopt-  
2 ed, shall exempt from disclosure information the Commis-  
3 sion determines would, if disclosed, be detrimental to the  
4 operation of an effective market or jeopardize system secu-  
5 rity.

6       “(2) In determining the information to be made avail-  
7 able under this section and time to make the information  
8 available, the Commission shall seek to ensure that con-  
9 sumers and competitive markets are protected from the  
10 adverse effects of potential collusion or other anticompeti-  
11 tive behaviors that can be facilitated by untimely public  
12 disclosure of transaction-specific information.

13       “(c)(1) This section shall not affect the exclusive ju-  
14 risdiction of the Commodity Futures Trading Commission  
15 with respect to accounts, agreements, contracts, or trans-  
16 actions in commodities under the Commodity Exchange  
17 Act (7 U.S.C. 1 et seq.).

18       “(2) Any request for information to a designated con-  
19 tract market, registered derivatives transaction execution  
20 facility, board of trade, exchange, or market involving ac-  
21 counts, agreements, contracts, or transactions in commod-  
22 ities (including natural gas, electricity and other energy  
23 commodities) within the exclusive jurisdiction of the Com-  
24 modity Futures Trading Commission shall be directed to  
25 the Commodity Futures Trading Commission, which shall

1 cooperate in responding to any information request by the  
2 Commission.

3 “(d) In carrying out this section, the Commission  
4 shall not—

5 “(1) compete with, or displace from the market  
6 place, any price publisher (including any electronic  
7 price publisher);

8 “(2) regulate price publishers (including any  
9 electronic price publisher); or

10 “(3) impose any requirements on the publica-  
11 tion of information by price publishers (including  
12 any electronic price publisher).

13 “(e)(1) The Commission shall not condition access to  
14 interstate pipeline transportation on the reporting require-  
15 ments of this section.

16 “(2) The Commission shall not require natural gas  
17 producers, processors, or users who have a de minimis  
18 market presence to comply with the reporting require-  
19 ments of this section.

20 “(f)(1) Except as provided in paragraph (2), no per-  
21 son shall be subject to any civil penalty under this section  
22 with respect to any violation occurring more than 3 years  
23 before the date on which the person is provided notice of  
24 the proposed penalty under section 22(b).

1       “(2) Paragraph (1) shall not apply in any case in  
 2       which the Commission finds that a seller that has entered  
 3       into a contract for the transportation or sale of natural  
 4       gas subject to the jurisdiction of the Commission has en-  
 5       gaged in fraudulent market manipulation activities materi-  
 6       ally affecting the contract in violation of section 4A.”.

7       **SEC. 387. DEADLINE FOR DECISION ON APPEALS OF CON-**  
 8                               **SISTENCY DETERMINATION UNDER THE**  
 9                               **COASTAL ZONE MANAGEMENT ACT OF 1972.**

10       (a) IN GENERAL.—Section 319 of the Coastal Zone  
 11       Management Act of 1972 (16 U.S.C. 1465) is amended  
 12       to read as follows:

13                               “APPEALS TO THE SECRETARY

14       “SEC. 319. (a) NOTICE.—Not later than 30 days  
 15       after the date of the filing of an appeal to the Secretary  
 16       of a consistency determination under section 307, the Sec-  
 17       retary shall publish an initial notice in the Federal Reg-  
 18       ister.

19       “(b) CLOSURE OF RECORD.—

20               “(1) IN GENERAL.—Not later than the end of  
 21       the 270-day period beginning on the date of publica-  
 22       tion of an initial notice under subsection (a), except  
 23       as provided in paragraph (3), the Secretary shall im-  
 24       mediately close the decision record and receive no  
 25       more filings on the appeal.

1           “(2) NOTICE.—After closing the administrative  
2       record, the Secretary shall immediately publish a no-  
3       tice in the Federal Register that the administrative  
4       record has been closed.

5           “(3) EXCEPTION.—

6               “(A) IN GENERAL.—Subject to subpara-  
7       graph (B), during the 270-day period described  
8       in paragraph (1), the Secretary may stay the  
9       closing of the decision record—

10               “(i) for a specific period mutually  
11       agreed to in writing by the appellant and  
12       the State agency; or

13               “(ii) as the Secretary determines nec-  
14       essary to receive, on an expedited basis—

15                   “(I) any supplemental informa-  
16       tion specifically requested by the Sec-  
17       retary to complete a consistency re-  
18       view under this Act; or

19                   “(II) any clarifying information  
20       submitted by a party to the pro-  
21       ceeding related to information already  
22       existing in the sole record.

23               “(B) APPLICABILITY.—The Secretary may  
24       only stay the 270-day period described in para-  
25       graph (1) for a period not to exceed 60 days.

1 “(c) DEADLINE FOR DECISION.—

2 “(1) IN GENERAL.—Not later than 90 days  
3 after the date of publication of a Federal Register  
4 notice stating when the decision record for an appeal  
5 has been closed, the Secretary shall issue a decision  
6 or publish a notice in the Federal Register explain-  
7 ing why a decision cannot be issued at that time.

8 “(2) SUBSEQUENT DECISION.—Not later than  
9 45 days after the date of publication of a Federal  
10 Register notice explaining why a decision cannot be  
11 issued within the 90-day period, the Secretary shall  
12 issue a decision.”.

13 **SEC. 388. FEDERAL-STATE LIQUEFIED NATURAL GAS FO-**  
14 **RUMS.**

15 (a) IN GENERAL.—Not later than 1 year after the  
16 date of enactment of this Act, the Secretary, in coopera-  
17 tion and consultation with the Secretary of Transpor-  
18 tation, the Secretary of Homeland Security, the Federal  
19 Energy Regulatory Commission, and the Governors of the  
20 Coastal States, shall convene not less than 3 forums on  
21 liquefied natural gas.

22 (b) REQUIREMENTS.—The forums shall—

23 (1) be located in areas where liquefied natural  
24 gas facilities are under consideration;

1           (2) be designed to foster dialogue among Fed-  
2       eral officials, State and local officials, the general  
3       public, independent experts, and industry represent-  
4       atives; and

5           (3) at a minimum, provide an opportunity for  
6       public education and dialogue on—

7           (A) the role of liquefied natural gas in  
8       meeting current and future United States en-  
9       ergy supply requirements and demand, in the  
10      context of the full range of energy supply op-  
11      tions;

12          (B) the Federal and State siting and per-  
13      mitting processes;

14          (C) the potential risks and rewards associ-  
15      ated with importing liquefied natural gas;

16          (D) the Federal safety and environmental  
17      requirements (including regulations) applicable  
18      to liquefied natural gas;

19          (E) prevention, mitigation, and response  
20      strategies for liquefied natural gas hazards; and

21          (F) additional issues as appropriate.

22      (c) PURPOSE.—The purpose of the forums shall be  
23      to identify and develop best practices for addressing the  
24      issues and challenges associated with liquefied natural gas  
25      imports, building on existing cooperative efforts.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as are nec-  
3 essary to carry out this section.

4 **SEC. 389. PROHIBITION OF TRADING AND SERVING BY CER-**  
5 **TAIN PERSONS.**

6 Section 20 of the Natural Gas Act (15 U.S.C. 717s)  
7 is amended by adding at the end the following:

8 “(d) In any proceedings under subsection (a), the  
9 court may prohibit, conditionally or unconditionally, and  
10 permanently or for such period of time as the court deter-  
11 mines, any person who is engaged or has engaged in prac-  
12 tices constituting a violation of section 4A (including re-  
13 lated rules and regulations) from—

14 “(1) acting as an officer or director of a natural  
15 gas company; or

16 “(2) engaging in the business of—

17 “(A) the purchasing or selling of natural  
18 gas; or

19 “(B) the purchasing or selling of trans-  
20 mission services subject to the jurisdiction of  
21 the Commission.”.

## 1        **Subtitle F—Federal Coalbed** 2        **Methane Regulation**

### 3    **SEC. 391. FEDERAL COALBED METHANE REGULATION.**

4        Any State that, as of the date of enactment of this  
5    Act, is included on the list of affected States established  
6    under section 1339(b) of the Energy Policy Act of 1992  
7    (42 U.S.C. 13368(b)) shall be removed from the list if,  
8    not later than 3 years after the date of enactment of this  
9    Act, the State takes, or prior to that date of enactment,  
10   has taken, any of the actions required for removal from  
11   the list under that section.

## 12        **TITLE IV—COAL**

### 13        **Subtitle A—Clean Coal Power** 14        **Initiative**

#### 15    **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

16        (a) CLEAN COAL POWER INITIATIVE.—There is au-  
17    thorized to be appropriated to the Secretary to carry out  
18    the activities authorized by this subtitle \$200,000,000 for  
19    each of fiscal years 2006 through 2014, to remain avail-  
20    able until expended.

21        (b) REPORT.—Not later than March 31, 2006, the  
22    Secretary shall submit to Congress a report that includes  
23    an 8-year plan containing—

24            (1) a detailed assessment of whether the aggre-  
25    gate assistance levels provided under subsection (a)



1 are the appropriate assistance levels for the clean  
2 coal power initiative;

3 (2) a detailed description of how proposals for  
4 assistance under the clean coal power initiative will  
5 be solicited and evaluated, including a list of all ac-  
6 tivities expected to be undertaken;

7 (3) a detailed list of technical milestones for  
8 each coal and related technology that will be pursued  
9 under the clean coal power initiative; and

10 (4) a detailed description of how the clean coal  
11 power initiative will avoid problems enumerated in  
12 Government Accountability Office reports on the  
13 Clean Coal Technology Program of the Department,  
14 including problems that have resulted in unspent  
15 funds and projects that failed either financially or  
16 scientifically.

17 **SEC. 402. PROJECT CRITERIA.**

18 (a) IN GENERAL.—To be eligible to receive assistance  
19 under this subtitle, a project shall advance efficiency, envi-  
20 ronmental performance, and cost competitiveness well be-  
21 yond the level of technologies that are in commercial serv-  
22 ice or have been demonstrated on a scale that the Sec-  
23 retary determines is sufficient to demonstrate that com-  
24 mercial service is viable as of the date of enactment of  
25 this Act.

1 (b) TECHNICAL CRITERIA FOR CLEAN COAL POWER  
2 INITIATIVE.—

3 (1) GASIFICATION PROJECTS.—

4 (A) IN GENERAL.—In allocating the funds  
5 made available under section 401(a), the Sec-  
6 retary shall ensure that at least 80 percent of  
7 the funds are used only to fund projects on  
8 coal-based gasification technologies, including—

- 9 (i) gasification combined cycle;  
10 (ii) gasification fuel cells;  
11 (iii) gasification coproduction; and  
12 (iv) hybrid gasification or combustion.

13 (B) TECHNICAL MILESTONES.—

14 (i) PERIODIC DETERMINATION.—

15 (I) IN GENERAL.—The Secretary  
16 shall periodically set technical mile-  
17 stones specifying the emission and  
18 thermal efficiency levels that coal gas-  
19 ification projects under this subtitle  
20 shall be designed, and reasonably ex-  
21 pected, to achieve.

22 (II) RESTRICTIVE MILE-  
23 STONES.—The technical milestones  
24 shall become more restrictive during

1 the period of the clean coal power ini-  
 2 tiative.

3 (ii) 2020 GOALS.—The Secretary shall  
 4 establish the periodic milestones so as to  
 5 achieve by the year 2020 coal gasification  
 6 projects able—

7 (I) to remove at least 99 percent  
 8 of sulfur dioxide;

9 (II) to emit not more than .05  
 10 lbs of NO<sub>x</sub> per million Btu;

11 (III) to achieve substantial reduc-  
 12 tions in mercury emissions; and

13 (IV) to achieve a thermal effi-  
 14 ciency of at least—

15 (aa) 60 percent for coal of  
 16 more than 9,000 Btu;

17 (bb) 59 percent for coal of  
 18 7,000 to 9,000 Btu; and

19 (cc) 50 percent for coal of  
 20 less than 7,000 Btu.

21 (2) OTHER PROJECTS.—

22 (A) ALLOCATION OF FUNDS.—The Sec-  
 23 retary shall ensure that up to 20 percent of the  
 24 funds made available under section 401(a) are

used to fund projects other than those described  
in paragraph (1).

(B) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—

(I) IN GENERAL.—The Secretary shall periodically establish technical milestones specifying the emission and thermal efficiency levels that projects funded under this paragraph shall be designed, and reasonably expected, to achieve.

(II) RESTRICTIVE MILESTONES.—The technical milestones shall become more restrictive during the period of the clean coal power initiative.

(ii) 2010 GOALS.—The Secretary shall set the periodic milestones so as to achieve by the year 2010 projects able—

(I) to remove at least 97 percent of sulfur dioxide;

(II) to emit no more than .08 lbs of NO<sub>x</sub> per million Btu;

(III) to achieve substantial reductions in mercury emissions; and

1 (IV) to achieve a thermal effi-  
2 ciency of at least—

3 (aa) 45 percent for coal of  
4 more than 9,000 Btu;

5 (bb) 44 percent for coal of  
6 7,000 to 9,000 Btu; and

7 (cc) 40 percent for coal of  
8 less than 7,000 Btu.

9 (3) CONSULTATION.—Before setting the tech-  
10 nical milestones under paragraphs (1)(B) and  
11 (2)(B), the Secretary shall consult with—

12 (A) the Administrator of the Environ-  
13 mental Protection Agency; and

14 (B) interested entities, including—

15 (i) coal producers;

16 (ii) industries using coal;

17 (iii) organizations that promote coal  
18 or advanced coal technologies;

19 (iv) environmental organizations; and

20 (v) organizations representing work-  
21 ers.

22 (4) EXISTING UNITS.—In the case of projects  
23 at units in existence on the date of enactment of this  
24 Act, in lieu of the thermal efficiency requirements  
25 described in paragraphs (1)(B)(ii)(IV) and

1 (2)(B)(ii)(IV), the milestones shall be designed to  
 2 achieve an overall thermal design efficiency improve-  
 3 ment, compared to the efficiency of the unit as oper-  
 4 ated, of not less than—

5 (A) 7 percent for coal of more than 9,000  
 6 Btu;

7 (B) 6 percent for coal of 7,000 to 9,000  
 8 Btu; or

9 (C) 4 percent for coal of less than 7,000  
 10 Btu.

11 (5) ADMINISTRATION.—

12 (A) ELEVATION OF SITE.—In evaluating  
 13 project proposals to achieve thermal efficiency  
 14 levels established under paragraphs (1)(B)(i)  
 15 and (2)(B)(i) and in determining progress to-  
 16 wards thermal efficiency milestones under para-  
 17 graphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4),  
 18 the Secretary shall take into account and make  
 19 adjustments for the elevation of the site at  
 20 which a project is proposed to be constructed.

21 (B) APPLICABILITY OF MILESTONES.—The  
 22 thermal efficiency milestones under paragraphs  
 23 (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) shall not  
 24 apply to projects that separate and capture at

1           least 50 percent of the potential emissions of  
2           carbon dioxide by a facility.

3           (C) PRIORITY.—In carrying out this sub-  
4           title, the Secretary shall give priority to projects  
5           that include, as part of the project, the separa-  
6           tion and capture of carbon dioxide.

7           (c) FINANCIAL CRITERIA.—The Secretary shall not  
8           provide financial assistance under this subtitle for a  
9           project unless the recipient documents to the satisfaction  
10          of the Secretary that—

11           (1) the receipt of Federal assistance for the  
12           project is not required for the recipient to be finan-  
13           cially viable;

14           (2) the recipient will provide sufficient informa-  
15           tion to the Secretary to enable the Secretary to en-  
16           sure that the funds are spent efficiently and effec-  
17           tively; and

18           (3) a market exists for the technology being  
19           demonstrated or applied, as evidenced by statements  
20           of interest in writing from potential purchasers of  
21           the technology.

22           (d) FINANCIAL ASSISTANCE.—The Secretary shall  
23           provide financial assistance to projects that, as determined  
24           by the Secretary—

1           (1) meet the requirements of subsections (a),  
2           (b), and (c); and

3           (2) are likely—

4                (A) to achieve overall cost reductions in  
5           the use of coal to generate useful forms of en-  
6           ergy;

7                (B) to improve the competitiveness of coal  
8           among various forms of energy in order to  
9           maintain a diversity of fuel choices in the  
10          United States to meet electricity generation re-  
11          quirements; and

12               (C) to demonstrate methods and equip-  
13          ment that are applicable to 25 percent of the  
14          electricity generating facilities, using various  
15          types of coal, that use coal as the primary feed-  
16          stock as of the date of enactment of this Act.

17          (e) COST-SHARING.—In carrying out this subtitle,  
18          the Secretary shall require cost sharing in accordance with  
19          section 1002.

20          (f) APPLICABILITY.—No technology, or level of emis-  
21          sion reduction, solely by reason of the use of the tech-  
22          nology, or the achievement of the emission reduction, by  
23          1 or more facilities receiving assistance under this Act,  
24          shall be considered to be—



- 1           (1) adequately demonstrated for purposes of  
2       section 111 of the Clean Air Act (42 U.S.C. 7411);  
3           (2) achievable for purposes of section 169 of  
4       that Act (42 U.S.C. 7479); or  
5           (3) achievable in practice for purposes of sec-  
6       tion 171 of that Act (42 U.S.C. 7501).

7   **SEC. 403. REPORT.**

8       Not later than 1 year after the date of enactment  
9   of this Act, and once every 2 years thereafter through  
10  2012, the Secretary, in consultation with other appro-  
11  priate Federal agencies, shall submit to Congress a report  
12  describing—

13           (1)(A) the technical milestones described in sec-  
14       tion 402; and

15           (B) how those milestones ensure progress to-  
16       ward meeting the requirements of subsections  
17       (b)(1)(B) and (b)(2)(B) of section 402; and

18           (2) the status of projects that receive assistance  
19       under this subtitle.

20   **SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.**

21       (a) IN GENERAL.—As part of the clean coal power  
22   initiative, the Secretary shall award competitive, merit-  
23   based grants to institutions of higher education for the  
24   establishment of centers of excellence for energy systems  
25   of the future.

1 (b) BASIS FOR GRANTS.— The Secretary shall award  
2 grants under this section to institutions of higher edu-  
3 cation that show the greatest potential for advancing new  
4 clean coal technologies.

5 **SEC. 405. INTEGRATED COAL/RENEWABLE ENERGY SYS-**  
6 **TEM.**

7 (a) IN GENERAL.—Subject to the availability of ap-  
8 propriations, the Secretary may provide loan guarantees  
9 for a project to produce energy from coal of less than  
10 7,000 Btu/lb using appropriate advanced integrated gasifi-  
11 cation combined cycle technology, including repowering of  
12 existing facilities, that—

13 (1) is combined with wind and other renewable  
14 sources;

15 (2) minimizes and offers the potential to se-  
16 quester carbon dioxide emissions; and

17 (3) provides a ready source of hydrogen for  
18 near-site fuel cell demonstrations.

19 (b) REQUIREMENTS.—The facility—

20 (1) may be built in stages;

21 (2) shall have a combined output of at least  
22 200 megawatts at successively more competitive  
23 rates; and

24 (3) shall be located in the Upper Great Plains.

1 (c) TECHNICAL CRITERIA.—Technical criteria de-  
 2 scribed in section 402(b) shall apply to the facility.

3 (d) FEDERAL COST SHARE.—The Federal cost share  
 4 for the facility shall not exceed 50 percent.

5 (e) INVESTMENT TAX CREDITS.—

6 (1) IN GENERAL.—The loan guarantees pro-  
 7 vided under this section do not preclude the facility  
 8 from receiving an allocation for investment tax cred-  
 9 its under section 48A of the Internal Revenue Code  
 10 of 1986.

11 (2) OTHER FUNDING.—Use of the investment  
 12 tax credit described in paragraph (1) does not pro-  
 13 hibit the use of other clean coal program funding.

14 **SEC. 406. LOAN TO PLACE ALASKA CLEAN COAL TECH-**  
 15 **NOLOGY FACILITY IN SERVICE.**

16 (a) DEFINITIONS.—In this section:

17 (1) BORROWER.—The term “borrower” means  
 18 the owner of the clean coal technology plant.

19 (2) CLEAN COAL TECHNOLOGY PLANT.—The  
 20 term “clean coal technology plant” means the plant  
 21 located near Healy, Alaska, constructed under De-  
 22 partment cooperative agreement number DE-FC-  
 23 22-91PC90544.

24 (3) COST OF A DIRECT LOAN.—The term “cost  
 25 of a direct loan” has the meaning given the term in

1 section 502(5)(B) of the Federal Credit Reform Act  
2 of 1990 (2 U.S.C. 661a(5)(B)).

3 (b) AUTHORIZATION.—Subject to subsection (c), the  
4 Secretary shall use amounts made available under sub-  
5 section (e) to provide the cost of a direct loan to the bor-  
6 rower for purposes of placing the clean coal technology  
7 plant into reliable operation for the generation of elec-  
8 tricity.

9 (c) REQUIREMENTS.—

10 (1) MAXIMUM LOAN AMOUNT.—The amount of  
11 the direct loan provided under subsection (b) shall  
12 not exceed \$80,000,000.

13 (2) DETERMINATIONS BY SECRETARY.—Before  
14 providing the direct loan to the borrower under sub-  
15 section (b), the Secretary shall determine that—

16 (A) the plan of the borrower for placing  
17 the clean coal technology plant in reliable oper-  
18 ation has a reasonable prospect of success;

19 (B) the amount of the loan (when com-  
20 bined with amounts available to the borrower  
21 from other sources) will be sufficient to carry  
22 out the project; and

23 (C) there is a reasonable prospect that the  
24 borrower will repay the principal and interest  
25 on the loan.

1           (3) INTEREST; TERM.—The direct loan pro-  
2       vided under subsection (b) shall bear interest at a  
3       rate and for a term that the Secretary determines  
4       appropriate, after consultation with the Secretary of  
5       the Treasury, taking into account the needs and ca-  
6       pacities of the borrower and the prevailing rate of  
7       interest for similar loans made by public and private  
8       lenders.

9           (4) ADDITIONAL TERMS AND CONDITIONS.—  
10      The Secretary may require any other terms and con-  
11      ditions that the Secretary determines to be appro-  
12      priate.

13      (d) USE OF PAYMENTS.—The Secretary shall retain  
14      any payments of principal and interest on the direct loan  
15      provided under subsection (b) to support energy research  
16      and development activities, to remain available until ex-  
17      pended, subject to any other conditions in an applicable  
18      appropriations Act.

19      (e) AUTHORIZATION OF APPROPRIATIONS.—There  
20      are authorized to be appropriated such sums as are nec-  
21      essary to provide the cost of a direct loan under subsection  
22      (b).

1 **SEC. 407. WESTERN INTEGRATED COAL GASIFICATION**  
 2 **DEMONSTRATION PROJECT.**

3 (a) IN GENERAL.—Subject to the availability of ap-  
 4 propriations, the Secretary shall carry out a demonstra-  
 5 tion project to produce energy from coal (of not more than  
 6 9,000 Btu/lb) mined in the western United States using  
 7 integrated gasification combined cycle technology, includ-  
 8 ing repowering of existing facilities, that is capable of se-  
 9 questering carbon dioxide emissions (referred to in this  
 10 section as the “demonstration project”).

11 (b) LOCATION.—The demonstration project shall be  
 12 located in a western State at an altitude of greater than  
 13 4,000 feet above sea level.

14 (c) COST SHARING.—The Federal share of the cost  
 15 of the demonstration project shall be determined in ac-  
 16 cordance with section 1002.

17 (d) LOAN GUARANTEES.—Notwithstanding title XIV,  
 18 the demonstration project shall not be eligible for Federal  
 19 loan guarantees.

20 **Subtitle B—Federal Coal Leases**

21 **SEC. 411. REPEAL OF THE 160-ACRE LIMITATION FOR COAL**  
 22 **LEASES.**

23 Section 3 of the Mineral Leasing Act (30 U.S.C. 203)  
 24 is amended—

25 (1) in the first sentence, by striking “Any per-  
 26 son” and inserting the following: “(a)(1) Except as

1 provided in paragraph (3), on a finding by the Sec-  
2 retary under paragraph (2), any person”;

3 (2) in the second sentence, by striking “The  
4 Secretary” and inserting the following:

5 “(b) The Secretary”;

6 (3) in the third sentence, by striking “The min-  
7 imum” and inserting the following:

8 “(c) The minimum”;

9 (4) in subsection (a) (as designated by para-  
10 graph (1))—

11 (A) by striking “upon” and all that follows  
12 and inserting the following: “secure modifica-  
13 tions of the original coal lease by including ad-  
14 ditional coal lands or coal deposits contiguous  
15 or cornering to those embraced in the lease.”;  
16 and

17 (B) by adding at the end the following:

18 “(2) A finding referred to in paragraph (1) is a find-  
19 ing by the Secretary that the modifications—

20 “(A) would be in the interest of the United  
21 States;

22 “(B) would not displace a competitive interest  
23 in the lands; and

1           “(C) would not include lands or deposits that  
2           can be developed as part of another potential or ex-  
3           isting operation.

4           “(3) In no case shall the total area added by modi-  
5           fications to an existing coal lease under paragraph (1)—

6           “(A) exceed 320 acres; or

7           “(B) add acreage larger than that in the origi-  
8           nal lease.”.

9   **SEC. 412. MINING PLANS.**

10          Section 2(d)(2) of the Mineral Leasing Act (30  
11   U.S.C. 202a(2)) is amended—

12           (1) by inserting “(A)” after “(2)”; and

13           (2) by adding at the end the following:

14           “(B) The Secretary may establish a period of  
15           more than 40 years if the Secretary determines  
16           that—

17           “(i) the longer period will ensure the max-  
18           imum economic recovery of a coal deposit; or

19           “(ii) the longer period is in the interest of  
20           the orderly, efficient, or economic development  
21           of a coal resource.”.

22   **SEC. 413. PAYMENT OF ADVANCE ROYALTIES UNDER COAL**  
23           **LEASES.**

24          Section 7(b) of the Mineral Leasing Act (30 U.S.C.  
25   207(b)) is amended—



1           (1) in the first sentence, by striking “Each  
2       lease” and inserting the following: “(1) Each lease”;

3           (2) in the second sentence, by striking “The  
4       Secretary” and inserting the following:  
5       “(2) The Secretary”;

6           (3) in the third sentence, by striking “Such ad-  
7       vance royalties” and inserting the following:

8       “(3) Advance royalties described in paragraph (2)”;

9           (4) in the seventh sentence, by striking “The  
10      Secretary” and inserting the following:

11      “(6) The Secretary”;

12           (5) in the last sentence, by striking “Nothing”  
13      and inserting the following:

14      “(7) Nothing”;

15           (6) by striking the fourth, fifth, and sixth sen-  
16      tences; and

17           (7) by inserting after paragraph (3) (as des-  
18      ignated by paragraph (3)) the following:

19      “(4) The aggregate number of years during the pe-  
20      riod of any lease for which advance royalties may be ac-  
21      cepted in lieu of the condition of continued operation shall  
22      not exceed 20 years.

23      “(5) The amount of any production royalty paid for  
24      any year shall be reduced (but not below 0) by the amount  
25      of any advance royalties paid under a lease described in

1 paragraph (4) to the extent that the advance royalties  
 2 have not been used to reduce production royalties for a  
 3 prior year.”.

4 **SEC. 414. ELIMINATION OF DEADLINE FOR SUBMISSION OF**  
 5 **COAL LEASE OPERATION AND RECLAMATION**  
 6 **PLAN.**

7 Section 7(c) of the Mineral Leasing Act (30 U.S.C.  
 8 207(c)) is amended by striking “and not later than three  
 9 years after a lease is issued,”.

10 **SEC. 415. APPLICATION OF AMENDMENTS.**

11 (a) IN GENERAL.—The amendments made by this  
 12 subtitle apply to any coal lease issued on or after the date  
 13 of enactment of this Act.

14 (b) COAL LEASES ISSUED BEFORE DATE OF ENACT-  
 15 MENT.—With respect to any coal lease issued before the  
 16 date of enactment of this Act, the amendments made by  
 17 this subtitle apply—

18 (1) on the date of readjustment of the lease as  
 19 provided under section 7(a) of the Mineral Leasing  
 20 Act (30 U.S.C. 207); or

21 (2) on request by the lessee, prior to that date.

22 **TITLE V—INDIAN ENERGY**

23 **SEC. 501. SHORT TITLE.**

24 This title may be cited as the “Indian Tribal Energy  
 25 Development and Self-Determination Act of 2005”.

1 **SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PRO-**  
2 **GRAMS.**

3 (a) IN GENERAL.—Title II of the Department of En-  
4 ergy Organization Act (42 U.S.C. 7131 et seq.) is amend-  
5 ed by adding at the end the following:

6 “OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

7 “SEC. 217. (a) ESTABLISHMENT.—

8 “(1) There is established within the Depart-  
9 ment an Office of Indian Energy Policy and Pro-  
10 grams (referred to in this section as the ‘Office’).

11 “(2) The Office shall be headed by a Director,  
12 to be appointed by the Secretary and compensated  
13 at a rate equal to that of level IV of the Executive  
14 Schedule under section 5315 of title 5, United  
15 States Code.

16 “(b) DUTIES OF DIRECTOR.—The Director, in ac-  
17 cordance with Federal policies promoting Indian self-de-  
18 termination and the purposes of this Act, shall provide,  
19 direct, foster, coordinate, and implement energy planning,  
20 education, management, conservation, and delivery pro-  
21 grams of the Department that—

22 “(1) promote Indian tribal energy development,  
23 efficiency, and use;

24 “(2) reduce or stabilize energy costs;

1 “(3) enhance and strengthen Indian tribal en-  
 2 ergy and economic infrastructure relating to natural  
 3 resource development and electrification; and

4 “(4) bring electrical power and service to In-  
 5 dian land and the homes of tribal members that  
 6 are—

7 “(A) located on Indian land; or

8 “(B) acquired, constructed, or improved  
 9 (in whole or in part) with Federal funds.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) The table of contents of the Department of  
 12 Energy Organization Act (42 U.S.C. prec. 7101) is  
 13 amended—

14 (A) in the item relating to section 209, by  
 15 striking “SECTION” and inserting “SEC.”; and

16 (B) by striking the items relating to sec-  
 17 tions 213 through 216 and inserting the fol-  
 18 lowing:

“Sec. 213. Establishment of policy for National Nuclear Security  
 Administration.

“Sec. 214. Establishment of security, counterintelligence, and in-  
 telligence policies.

“Sec. 215. Office of Counterintelligence.

“Sec. 216. Office of Intelligence.

“Sec. 217. Office of Indian Energy Policy and Programs.”.

19 (2) Section 5315 of title 5, United States Code,  
 20 is amended by inserting “Director, Office of Indian  
 21 Energy Policy and Programs, Department of En-

1       ergy.” after “Inspector General, Department of En-  
2       ergy.”.

3   **SEC. 503. INDIAN ENERGY.**

4       (a) IN GENERAL.—Title XXVI of the Energy Policy  
5   Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read  
6   as follows:

7       **“TITLE XXVI—INDIAN ENERGY**

8       **“SEC. 2601. DEFINITIONS.**

9       “In this title:

10           “(1) The term ‘Director’ means the Director of  
11       the Office of Indian Energy Policy and Programs,  
12       Department of Energy.

13           “(2) The term ‘Indian land’ means—

14               “(A) any land located within the bound-  
15               aries of an Indian reservation, pueblo, or  
16               rancheria;

17               “(B) any land not located within the  
18               boundaries of an Indian reservation, pueblo, or  
19               rancheria, the title to which is held—

20                   “(i) in trust by the United States for  
21                   the benefit of an Indian tribe or an indi-  
22                   vidual Indian;

23                   “(ii) by an Indian tribe or an indi-  
24                   vidual Indian, subject to restriction against

1 alienation under laws of the United States;  
2 or

3 “(iii) by a dependent Indian commu-  
4 nity; and

5 “(C) land that is owned by an Indian tribe  
6 and was conveyed by the United States to a  
7 Native Corporation pursuant to the Alaska Na-  
8 tive Claims Settlement Act (43 U.S.C. 1601 et  
9 seq.), or that was conveyed by the United  
10 States to a Native Corporation in exchange for  
11 such land.

12 “(3) The term ‘Indian reservation’ includes—

13 “(A) an Indian reservation in existence in  
14 any State as of the date of enactment of this  
15 paragraph;

16 “(B) a public domain Indian allotment;  
17 and

18 “(C) a dependent Indian community lo-  
19 cated within the borders of the United States,  
20 regardless of whether the community is lo-  
21 cated—

22 “(i) on original or acquired territory  
23 of the community; or

24 “(ii) within or outside the boundaries  
25 of any particular State.

1           “(4)(A) The term ‘Indian tribe’ has the mean-  
2           ing given the term in section 4 of the Indian Self-  
3           Determination and Education Assistance Act (25  
4           U.S.C. 450b).

5           “(B) For the purpose of paragraph (12) and  
6           sections 2603(b)(1)(C) and 2604, the term ‘Indian  
7           tribe’ does not include any Native Corporation.

8           “(5) The term ‘integration of energy resources’  
9           means any project or activity that promotes the loca-  
10          tion and operation of a facility (including any pipe-  
11          line, gathering system, transportation system or fa-  
12          cility, or electric transmission or distribution facility)  
13          on or near Indian land to process, refine, generate  
14          electricity from, or otherwise develop energy re-  
15          sources on, Indian land.

16          “(6) The term ‘Native Corporation’ has the  
17          meaning given the term in section 3 of the Alaska  
18          Native Claims Settlement Act (43 U.S.C. 1602).

19          “(7) The term ‘organization’ means a partner-  
20          ship, joint venture, limited liability company, or  
21          other unincorporated association or entity that is es-  
22          tablished to develop Indian energy resources.

23          “(8) The term ‘Program’ means the Indian en-  
24          ergy resource development program established  
25          under section 2602(a).

1           “(9) The term ‘Secretary’ means the Secretary  
2 of the Interior.

3           “(10) The term ‘sequestration’ means the long-  
4 term separation, isolation, or removal of greenhouse  
5 gases from the atmosphere, including through a bio-  
6 logical or geologic method such as reforestation or  
7 an underground reservoir.

8           “(11) The term ‘tribal energy resource develop-  
9 ment organization’ means an organization of 2 or  
10 more entities, at least 1 of which is an Indian tribe,  
11 that has the written consent of the governing bodies  
12 of all Indian tribes participating in the organization  
13 to apply for a grant, loan, or other assistance under  
14 section 2602.

15           “(12) The term ‘tribal land’ means any land or  
16 interests in land owned by any Indian tribe, title to  
17 which is held in trust by the United States, or is  
18 subject to a restriction against alienation under laws  
19 of the United States.

20 **“SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOP-**  
21 **MENT.**

22           “(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

23           “(1) To assist Indian tribes in the development  
24 of energy resources and further the goal of Indian  
25 self-determination, the Secretary shall establish and



1       implement an Indian energy resource development  
2       program to assist consenting Indian tribes and tribal  
3       energy resource development organizations in achiev-  
4       ing the purposes of this title.

5               “(2) In carrying out the Program, the Sec-  
6       retary shall—

7                       “(A) provide development grants to Indian  
8       tribes and tribal energy resource development  
9       organizations for use in developing or obtaining  
10      the managerial and technical capacity needed to  
11      develop energy resources on Indian land, and to  
12      properly account for resulting energy produc-  
13      tion and revenues;

14                      “(B) provide grants to Indian tribes and  
15      tribal energy resource development organiza-  
16      tions for use in carrying out projects to pro-  
17      mote the integration of energy resources, and to  
18      process, use, or develop those energy resources,  
19      on Indian land; and

20                      “(C) provide low-interest loans to Indian  
21      tribes and tribal energy resource development  
22      organizations for use in the promotion of en-  
23      ergy resource development on Indian land and  
24      integration of energy resources.

1           “(3) There are authorized to be appropriated to  
2           carry out this subsection such sums as are necessary  
3           for each of fiscal years 2006 through 2016.

4           “(b) DEPARTMENT OF ENERGY INDIAN ENERGY  
5 EDUCATION PLANNING AND MANAGEMENT ASSISTANCE  
6 PROGRAM.—

7           “(1) The Director shall establish programs to  
8           assist consenting Indian tribes in meeting energy  
9           education, research and development, planning, and  
10          management needs.

11          “(2) In carrying out this subsection, the Direc-  
12          tor may provide grants, on a competitive basis, to an  
13          Indian tribe or tribal energy resource development  
14          organization for use in carrying out—

15               “(A) energy, energy efficiency, and energy  
16               conservation programs;

17               “(B) studies and other activities sup-  
18               porting tribal acquisitions of energy supplies,  
19               services, and facilities, including the creation of  
20               tribal utilities to assist in securing electricity to  
21               promote electrification of homes and businesses  
22               on Indian land;

23               “(C) planning, construction, development,  
24               operation, maintenance, and improvement of  
25               tribal electrical generation, transmission, and

1 distribution facilities located on Indian land;  
2 and

3 “(D) development, construction, and inter-  
4 connection of electric power transmission facili-  
5 ties located on Indian land with other electric  
6 transmission facilities.

7 “(3)(A) The Director shall develop a program  
8 to support and implement research projects that  
9 provide Indian tribes with opportunities to partici-  
10 pate in carbon sequestration practices on Indian  
11 land, including—

12 “(i) geologic sequestration;

13 “(ii) forest sequestration;

14 “(iii) agricultural sequestration; and

15 “(iv) any other sequestration opportunities  
16 the Director considers to be appropriate.

17 “(B) The activities carried out under subpara-  
18 graph (A) shall be—

19 “(i) coordinated with other carbon seques-  
20 tration research and development programs  
21 conducted by the Secretary of Energy;

22 “(ii) conducted to determine methods con-  
23 sistent with existing standardized measurement  
24 protocols to account and report the quantity of  
25 carbon dioxide or other greenhouse gases se-

1           questered in projects that may be implemented  
2           on tribal land; and

3           “(iii) reviewed periodically to collect and  
4           distribute to Indian tribes information on car-  
5           bon sequestration practices that will increase  
6           the sequestration of carbon without threatening  
7           the social and economic well-being of Indian  
8           tribes.

9           “(4)(A) The Director, in consultation with In-  
10          dian tribes, may develop a formula for providing  
11          grants under this subsection.

12          “(B) In providing a grant under this sub-  
13          section, the Director shall give priority to any appli-  
14          cation received from an Indian tribe with inadequate  
15          electric service (as determined by the Director).

16          “(5) The Secretary of Energy may issue such  
17          regulations as the Secretary determines to be nec-  
18          essary to carry out this subsection.

19          “(6) There is authorized to be appropriated to  
20          carry out this subsection \$20,000,000 for each of  
21          fiscal years 2006 through 2016.

22          “(c) DEPARTMENT OF ENERGY LOAN GUARANTEE  
23          PROGRAM.—

24          “(1) Subject to paragraphs (2) and (4), the  
25          Secretary of Energy may provide loan guarantees

1 (as defined in section 502 of the Federal Credit Re-  
2 form Act of 1990 (2 U.S.C. 661a)) for an amount  
3 equal to not more than 90 percent of the unpaid  
4 principal and interest due on any loan made to an  
5 Indian tribe for energy development.

6 “(2) In evaluating energy development pro-  
7 posals for which the Secretary of Energy may pro-  
8 vide a loan guarantee under paragraph (1), the Sec-  
9 retary of Energy shall give priority to any project  
10 that uses a new technology, such as coal gasification,  
11 carbon capture and sequestration, or renewable en-  
12 ergy-based electricity generation, if competing pro-  
13 posals are similar with respect to the level at which  
14 the proposals meet or exceed the criteria established  
15 by the Secretary of Energy for the loan guarantee  
16 program.

17 “(3) A loan guarantee under this subsection  
18 shall be made by—

19 “(A) a financial institution subject to ex-  
20 amination by the Secretary of Energy; or

21 “(B) an Indian tribe, from funds of the In-  
22 dian tribe.

23 “(4) The aggregate outstanding amount guar-  
24 anteed by the Secretary of Energy at any time under  
25 this subsection shall not exceed \$2,000,000,000.

1           “(5) The Secretary of Energy may issue such  
2 regulations as the Secretary of Energy determines  
3 are necessary to carry out this subsection.

4           “(6) There are authorized to be appropriated  
5 such sums as are necessary to carry out this sub-  
6 section, to remain available until expended.

7           “(7) Not later than 1 year after the date of en-  
8 actment of this section, the Secretary of Energy  
9 shall submit to Congress a report on the financing  
10 requirements of Indian tribes for energy develop-  
11 ment on Indian land.

12       “(d) PREFERENCE.—

13           “(1) In purchasing electricity or any other en-  
14 ergy product or byproduct, a Federal agency or de-  
15 partment may give preference to an energy and re-  
16 source production enterprise, partnership, consor-  
17 tium, corporation, or other type of business organi-  
18 zation the majority of the interest in which is owned  
19 and controlled by 1 or more Indian tribes.

20           “(2) In carrying out this subsection, a Federal  
21 agency or department shall not—

22               “(A) pay more than the prevailing market  
23 price for an energy product or byproduct; or

24               “(B) obtain less than prevailing market  
25 terms and conditions.

1   **“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULA-**  
2                           **TION.**

3           “(a) GRANTS.—The Secretary may provide to Indian  
4 tribes, on an annual basis, grants for use in accordance  
5 with subsection (b).

6           “(b) USE OF FUNDS.—Funds from a grant provided  
7 under this section may be used—

8                   “(1)(A) by an Indian tribe for the development  
9           of a tribal energy resource inventory or tribal energy  
10          resource on Indian land;

11                   “(B) by an Indian tribe for the development of  
12          a feasibility study or other report necessary to the  
13          development of energy resources on Indian land;

14                   “(C) by an Indian tribe (other than an Indian  
15          Tribe in the State of Alaska, except the Metlakatla  
16          Indian Community) for—

17                           “(i) the development and enforcement of  
18                  tribal laws (including regulations) relating to  
19                  tribal energy resource development; and

20                           “(ii) the development of technical infra-  
21                  structure to protect the environment under ap-  
22                  plicable law; or

23                   “(D) by a Native Corporation for the develop-  
24          ment and implementation of corporate policies and  
25          the development of technical infrastructure to pro-  
26          tect the environment under applicable law; and

1           “(2) by an Indian tribe for the training of em-  
2       ployees that—

3           “(A) are engaged in the development of en-  
4       ergy resources on Indian land; or

5           “(B) are responsible for protecting the en-  
6       vironment.

7       “(c) OTHER ASSISTANCE.—

8           “(1) In carrying out the obligations of the  
9       United States under this title, the Secretary shall  
10      ensure, to the maximum extent practicable and to  
11      the extent of available resources, that on the request  
12      of an Indian tribe, the Indian tribe shall have avail-  
13      able scientific and technical information and exper-  
14      tise, for use in the regulation, development, and  
15      management of energy resources of the Indian tribe  
16      on Indian land.

17          “(2) The Secretary may carry out paragraph  
18      (1)—

19           “(A) directly, through the use of Federal  
20      officials; or

21           “(B) indirectly, by providing financial as-  
22      sistance to an Indian tribe to secure inde-  
23      pendent assistance.



1   **“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-**  
2                   **OF-WAY INVOLVING ENERGY DEVELOPMENT**  
3                   **OR TRANSMISSION.**

4           “(a) LEASES AND BUSINESS AGREEMENTS.—In ac-  
5 cordance with this section—

6                   “(1) an Indian tribe may, at the discretion of  
7 the Indian tribe, enter into a lease or business  
8 agreement for the purpose of energy resource devel-  
9 opment on tribal land, including a lease or business  
10 agreement for—

11                           “(A) exploration for, extraction of, proc-  
12 essing of, or other development of the energy  
13 mineral resources of the Indian tribe located on  
14 tribal land; or

15                           “(B) construction or operation of—

16                                   “(i) an electric generation, trans-  
17 mission, or distribution facility located on  
18 tribal land; or

19                                   “(ii) a facility to process or refine en-  
20 ergy resources developed on tribal land;  
21 and

22                   “(2) a lease or business agreement described in  
23 paragraph (1) shall not require the approval of the  
24 Secretary under section 2103 of the Revised Stat-  
25 utes (25 U.S.C. 81), or any other provision of law,  
26 if—

1           “(A) the lease or business agreement is ex-  
2           ecuted pursuant to a tribal energy resource  
3           agreement approved by the Secretary under  
4           subsection (e);

5           “(B) the term of the lease or business  
6           agreement does not exceed—

7                   “(i) 30 years; or

8                   “(ii) in the case of a lease for the pro-  
9                   duction of oil resources, gas resources, or  
10                  both, 10 years and as long thereafter as oil  
11                  or gas is produced in paying quantities;  
12                  and

13           “(C) the Indian tribe has entered into a  
14           tribal energy resource agreement with the Sec-  
15           retary, as described in subsection (e), relating  
16           to the development of energy resources on tribal  
17           land (including the periodic review and evalua-  
18           tion of the activities of the Indian tribe under  
19           the agreement, to be conducted pursuant to  
20           subsection (e)(2)(D)(i)).

21           “(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC  
22           TRANSMISSION OR DISTRIBUTION LINES.—An Indian  
23           tribe may grant a right-of-way over tribal land for a pipe-  
24           line or an electric transmission or distribution line without  
25           approval by the Secretary if—

1           “(1) the right-of-way is executed in accordance  
2           with a tribal energy resource agreement approved by  
3           the Secretary under subsection (e);

4           “(2) the term of the right-of-way does not ex-  
5           ceed 30 years;

6           “(3) the pipeline or electric transmission or dis-  
7           tribution line serves—

8                   “(A) an electric generation, transmission,  
9                   or distribution facility located on tribal land; or

10                   “(B) a facility located on tribal land that  
11                   processes or refines energy resources developed  
12                   on tribal land; and

13           “(4) the Indian tribe has entered into a tribal  
14           energy resource agreement with the Secretary, as de-  
15           scribed in subsection (e), relating to the development  
16           of energy resources on tribal land (including the  
17           periodic review and evaluation of the activities of the  
18           Indian tribe under an agreement described in sub-  
19           paragraphs (D) and (E) of subsection (e)(2)).

20           “(c) RENEWALS.—A lease or business agreement en-  
21           tered into, or a right-of-way granted, by an Indian tribe  
22           under this section may be renewed at the discretion of the  
23           Indian tribe in accordance with this section.

24           “(d) VALIDITY.—No lease, business agreement, or  
25           right-of-way relating to the development of tribal energy

1 resources under this section shall be valid unless the lease,  
2 business agreement, or right-of-way is authorized by a  
3 tribal energy resource agreement approved by the Sec-  
4 retary under subsection (e)(2).

5 “(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

6 “(1) On the date on which regulations are pro-  
7 mulgated under paragraph (8), an Indian tribe may  
8 submit to the Secretary for approval a tribal energy  
9 resource agreement governing leases, business agree-  
10 ments, and rights-of-way under this section.

11 “(2)(A) Not later than 1 year after the date on  
12 which the Secretary receives a tribal energy resource  
13 agreement from an Indian tribe under paragraph  
14 (1), or not later than 60 days after the Secretary re-  
15 ceives a revised tribal energy resource agreement  
16 from an Indian tribe under paragraph (4)(C) (or a  
17 later date, as agreed to by the Secretary and the In-  
18 dian tribe), the Secretary shall approve or dis-  
19 approve the tribal energy resource agreement.

20 “(B) The Secretary shall approve a tribal en-  
21 ergy resource agreement submitted under paragraph  
22 (1) if—

23 “(i) the Secretary determines that the In-  
24 dian tribe has demonstrated that the Indian  
25 tribe has sufficient capacity to regulate the de-

1           velopment of energy resources of the Indian  
2           tribe;

3           “(ii) the tribal energy resource agreement  
4           includes provisions required under subpara-  
5           graph (D); and

6           “(iii) the tribal energy resource agreement  
7           includes provisions that, with respect to a lease,  
8           business agreement, or right-of-way under this  
9           section—

10           “(I) ensure the acquisition of nec-  
11           essary information from the applicant for  
12           the lease, business agreement, or right-of-  
13           way;

14           “(II) address the term of the lease or  
15           business agreement or the term of convey-  
16           ance of the right-of-way;

17           “(III) address amendments and re-  
18           newals;

19           “(IV) address the economic return to  
20           the Indian tribe under leases, business  
21           agreements, and rights-of-way;

22           “(V) address technical or other rel-  
23           evant requirements;

1 “(VI) establish requirements for envi-  
2 ronmental review in accordance with sub-  
3 paragraph (C);

4 “(VII) ensure compliance with all ap-  
5 plicable environmental laws, including a re-  
6 quirement that each lease, business agree-  
7 ment, and right-of-way state that the les-  
8 see, operator, or right-of-way grantee shall  
9 comply with all such laws;

10 “(VIII) identify final approval author-  
11 ity;

12 “(IX) provide for public notification of  
13 final approvals;

14 “(X) establish a process for consulta-  
15 tion with any affected States regarding off-  
16 reservation impacts, if any, identified  
17 under subparagraph (C)(i);

18 “(XI) describe the remedies for  
19 breach of the lease, business agreement, or  
20 right-of-way;

21 “(XII) require each lease, business  
22 agreement, and right-of-way to include a  
23 statement that, if any of its provisions vio-  
24 lates an express term or requirement of the  
25 tribal energy resource agreement pursuant

1 to which the lease, business agreement, or  
2 right-of-way was executed—

3 “(aa) the provision shall be null  
4 and void; and

5 “(bb) if the Secretary determines  
6 the provision to be material, the Sec-  
7 retary may suspend or rescind the  
8 lease, business agreement, or right-of-  
9 way or take other appropriate action  
10 that the Secretary determines to be in  
11 the best interest of the Indian tribe;

12 “(XIII) require each lease, business  
13 agreement, and right-of-way to provide  
14 that it will become effective on the date on  
15 which a copy of the executed lease, busi-  
16 ness agreement, or right-of-way is deliv-  
17 ered to the Secretary in accordance with  
18 regulations promulgated under paragraph  
19 (8);

20 “(XIV) include citations to tribal  
21 laws, regulations, or procedures, if any,  
22 that set out tribal remedies that must be  
23 exhausted before a petition may be sub-  
24 mitted to the Secretary under paragraph  
25 (7)(B);

1           “(XV) specify the financial assistance,  
2           if any, to be provided by the Secretary to  
3           the Indian tribe to assist in implementa-  
4           tion of the tribal energy resource agree-  
5           ment, including environmental review of in-  
6           dividual projects; and

7           “(XVI) in accordance with the regula-  
8           tions promulgated by the Secretary under  
9           paragraph (8), require that the Indian  
10          tribe, as soon as practicable after receipt  
11          of a notice by the Indian tribe, give written  
12          notice to the Secretary of—

13               “(aa) any breach or other viola-  
14               tion by another party of any provision  
15               in a lease, business agreement, or  
16               right-of-way entered into under the  
17               tribal energy resource agreement; and

18               “(bb) any activity or occurrence  
19               under a lease, business agreement, or  
20               right-of-way that constitutes a viola-  
21               tion of Federal or tribal environ-  
22               mental laws.

23           “(C) Tribal energy resource agreements  
24           submitted under paragraph (1) shall establish,  
25           and include provisions to ensure compliance



1 with, an environmental review process that,  
2 with respect to a lease, business agreement, or  
3 right-of-way under this section, provides for, at  
4 a minimum—

5 “(i) the identification and evaluation  
6 of all significant environmental effects (as  
7 compared to a no-action alternative), in-  
8 cluding effects on cultural resources;

9 “(ii) the identification of proposed  
10 mitigation measures, if any, and incorpora-  
11 tion of the mitigation measures into the  
12 lease, business agreement, or right-of-way;

13 “(iii) a process for ensuring that—

14 “(I) the public is informed of,  
15 and has an opportunity to comment  
16 on, the environmental impacts of the  
17 proposed action; and

18 “(II) responses to relevant and  
19 substantive comments are provided,  
20 before tribal approval of the lease,  
21 business agreement, or right-of-way;

22 “(iv) sufficient administrative support  
23 and technical capability to carry out the  
24 environmental review process; and

1           “(v) oversight by the Indian tribe of  
2           energy development activities by any other  
3           party under any lease, business agreement,  
4           or right-of-way entered into pursuant to  
5           the tribal energy resource agreement, to  
6           determine whether the activities are in  
7           compliance with the tribal energy resource  
8           agreement and applicable Federal environ-  
9           mental laws.

10           “(D) A tribal energy resource agreement  
11           between the Secretary and an Indian tribe  
12           under this subsection shall include—

13           “(i) provisions requiring the Secretary  
14           to conduct a periodic review and evaluation  
15           to monitor the performance of the activi-  
16           ties of the Indian tribe associated with the  
17           development of energy resources under the  
18           tribal energy resource agreement; and

19           “(ii) if a periodic review and evalua-  
20           tion, or an investigation, by the Secretary  
21           of any breach or violation described in a  
22           notice provided by the Indian tribe to the  
23           Secretary in accordance with subparagraph  
24           (B)(iii)(XVI), results in a finding by the  
25           Secretary of imminent jeopardy to a phys-

1            ical trust asset arising from a violation of  
2            the tribal energy resource agreement or ap-  
3            plicable Federal laws, provisions author-  
4            izing the Secretary to take actions deter-  
5            mined by the Secretary to be necessary to  
6            protect the asset, including reassumption  
7            of responsibility for activities associated  
8            with the development of energy resources  
9            on tribal land until the violation and any  
10          condition that caused the jeopardy are cor-  
11          rected.

12            “(E) Periodic review and evaluation under  
13          subparagraph (D) shall be conducted on an an-  
14          nual basis, except that, after the third annual  
15          review and evaluation, the Secretary and the  
16          Indian tribe may mutually agree to amend the  
17          tribal energy resource agreement to authorize  
18          the review and evaluation under subparagraph  
19          (D) to be conducted once every 2 years.

20            “(3) The Secretary shall provide notice and op-  
21          portunity for public comment on tribal energy re-  
22          source agreements submitted for approval under  
23          paragraph (1).

24            “(4) If the Secretary disapproves a tribal en-  
25          ergy resource agreement submitted by an Indian

1       tribe under paragraph (1), the Secretary shall, not  
2       later than 10 days after the date of disapproval—

3               “(A) notify the Indian tribe in writing of  
4       the basis for the disapproval;

5               “(B) identify what changes or other ac-  
6       tions are required to address the concerns of  
7       the Secretary; and

8               “(C) provide the Indian tribe with an op-  
9       portunity to revise and resubmit the tribal en-  
10      ergy resource agreement.

11              “(5) If an Indian tribe executes a lease or busi-  
12      ness agreement, or grants a right-of-way, in accord-  
13      ance with a tribal energy resource agreement ap-  
14      proved under this subsection, the Indian tribe shall,  
15      in accordance with the process and requirements  
16      under regulations promulgated under paragraph (8),  
17      provide to the Secretary—

18              “(A) a copy of the lease, business agree-  
19      ment, or right-of-way document (including all  
20      amendments to and renewals of the document);  
21      and

22              “(B) in the case of a tribal energy resource  
23      agreement or a lease, business agreement, or  
24      right-of-way that permits payments to be made  
25      directly to the Indian tribe, information and

1 documentation of those payments sufficient to  
2 enable the Secretary to discharge the trust re-  
3 sponsibility of the United States to enforce the  
4 terms of, and protect the rights of the Indian  
5 tribe under, the lease, business agreement, or  
6 right-of-way.

7 “(6)(A) In carrying out this section, the Sec-  
8 retary shall—

9 “(i) act in accordance with the trust re-  
10 sponsibility of the United States relating to  
11 mineral and other trust resources; and

12 “(ii) act in good faith and in the best in-  
13 terests of the Indian tribes.

14 “(B) Subject to the provisions of subsections  
15 (a)(2), (b), and (c) waiving the requirement of Sec-  
16 retarial approval of leases, business agreements, and  
17 rights-of-way executed pursuant to tribal energy re-  
18 source agreements approved under this section, and  
19 the provisions of subparagraph (D), nothing in this  
20 section shall absolve the United States from any re-  
21 sponsibility to Indians or Indian tribes, including,  
22 but not limited to, those which derive from the trust  
23 relationship or from any treaties, statutes, and other  
24 laws of the United States, Executive Orders, or

1 agreements between the United States and any In-  
2 dian tribe.

3 “(C) The Secretary shall continue to fulfill the  
4 trust obligation of the United States to ensure that  
5 the rights and interests of an Indian tribe are pro-  
6 tected if—

7 “(i) any other party to a lease, business  
8 agreement, or right-of-way violates any applica-  
9 ble Federal law or the terms of any lease, busi-  
10 ness agreement, or right-of-way under this sec-  
11 tion; or

12 “(ii) any provision in a lease, business  
13 agreement, or right-of-way violates the tribal  
14 energy resource agreement pursuant to which  
15 the lease, business agreement, or right-of-way  
16 was executed.

17 “(D)(i) In this subparagraph, the term ‘nego-  
18 tiated term’ means any term or provision that is ne-  
19 gotiated by an Indian tribe and any other party to  
20 a lease, business agreement, or right-of-way entered  
21 into pursuant to an approved tribal energy resource  
22 agreement.

23 “(ii) Notwithstanding subparagraph (B), the  
24 United States shall not be liable to any party (in-  
25 cluding any Indian tribe) for any negotiated term of,

1 or any loss resulting from the negotiated terms of,  
2 a lease, business agreement, or right-of-way executed  
3 pursuant to and in accordance with a tribal energy  
4 resource agreement approved by the Secretary under  
5 paragraph (2).

6 “(7)(A) In this paragraph, the term ‘interested  
7 party’ means any person (including an entity) that  
8 has demonstrated that an interest of the person has  
9 sustained, or will sustain, an adverse environmental  
10 impact as a result of the failure of an Indian tribe  
11 to comply with a tribal energy resource agreement of  
12 the Indian tribe approved by the Secretary under  
13 paragraph (2).

14 “(B) After exhaustion of any tribal remedy, and  
15 in accordance with regulations promulgated by the  
16 Secretary under paragraph (8), an interested party  
17 may submit to the Secretary a petition to review the  
18 compliance by an Indian tribe with a tribal energy  
19 resource agreement of the Indian tribe approved by  
20 the Secretary under paragraph (2).

21 “(C)(i) Not later than 20 days after the date on  
22 which the Secretary receives a petition under sub-  
23 paragraph (B), the Secretary shall—

24 “(I) provide to the Indian tribe a copy of  
25 the petition; and

1           “(II) consult with the Indian tribe regard-  
2           ing any noncompliance alleged in the petition.

3           “(ii) Not later than 45 days after the date on  
4           which a consultation under clause (i)(II) takes place,  
5           the Indian tribe shall respond to any claim made in  
6           a petition under subparagraph (B).

7           “(iii) The Secretary shall act in accordance with  
8           subparagraphs (D) and (E) only if the Indian  
9           tribe—

10           “(I) denies, or fails to respond to, each  
11           claim made in the petition within the period de-  
12           scribed in clause (ii); or

13           “(II) fails, refuses, or is unable to cure or  
14           otherwise resolve each claim made in the peti-  
15           tion within a reasonable period, as determined  
16           by the Secretary, after the expiration of the pe-  
17           riod described in clause (ii).

18           “(D)(i) Not later than 120 days after the date  
19           on which the Secretary receives a petition under sub-  
20           paragraph (B), the Secretary shall determine wheth-  
21           er the Indian tribe is not in compliance with the  
22           tribal energy resource agreement.

23           “(ii) The Secretary may adopt procedures  
24           under paragraph (8) authorizing an extension of  
25           time, not to exceed 120 days, for making the deter-



1 mination under clause (i) in any case in which the  
2 Secretary determines that additional time is nec-  
3 essary to evaluate the allegations of the petition.

4 “(iii) Subject to subparagraph (E), if the Sec-  
5 retary determines that the Indian tribe is not in  
6 compliance with the tribal energy resource agree-  
7 ment, the Secretary shall take such action as the  
8 Secretary determines to be necessary to ensure com-  
9 pliance with the tribal energy resource agreement,  
10 including—

11 “(I) temporarily suspending any activity  
12 under a lease, business agreement, or right-of-  
13 way under this section until the Indian tribe is  
14 in compliance with the approved tribal energy  
15 resource agreement; or

16 “(II) rescinding approval of all or part of  
17 the tribal energy resource agreement, and if all  
18 of the agreement is rescinded, reassuming the  
19 responsibility for approval of any future leases,  
20 business agreements, or rights-of-way described  
21 in subsection (a) or (b).

22 “(E) Before taking an action described in sub-  
23 paragraph (D)(iii), the Secretary shall—

1           “(i) make a written determination that de-  
2           scribes the manner in which the tribal energy  
3           resource agreement has been violated;

4           “(ii) provide the Indian tribe with a writ-  
5           ten notice of the violations together with the  
6           written determination; and

7           “(iii) before taking any action described in  
8           subparagraph (D)(iii) or seeking any other rem-  
9           edy, provide the Indian tribe with a hearing and  
10          a reasonable opportunity to attain compliance  
11          with the tribal energy resource agreement.

12          “(F) An Indian tribe described in subparagraph  
13          (E) shall retain all rights to appeal under any regu-  
14          lation promulgated by the Secretary.

15          “(8) Not later than 1 year after the date of en-  
16          actment of the Energy Policy Act of 2005, the Sec-  
17          retary shall promulgate regulations that implement  
18          this subsection, including—

19               “(A) criteria to be used in determining the  
20               capacity of an Indian tribe under paragraph  
21               (2)(B)(i), including the experience of the Indian  
22               tribe in managing natural resources and finan-  
23               cial and administrative resources available for  
24               use by the Indian tribe in implementing the ap-

1           proved tribal energy resource agreement of the  
2           Indian tribe;

3                 “(B) a process and requirements in accord-  
4           ance with which an Indian tribe may—

5                 “(i) voluntarily rescind a tribal energy  
6           resource agreement approved by the Sec-  
7           retary under this subsection; and

8                 “(ii) return to the Secretary the re-  
9           sponsibility to approve any future lease,  
10          business agreement, or right-of-way under  
11          this subsection;

12                “(C) provisions establishing the scope of,  
13          and procedures for, the periodic review and  
14          evaluation described in subparagraphs (D) and  
15          (E) of paragraph (2), including provisions for  
16          review of transactions, reports, site inspections,  
17          and any other review activities the Secretary  
18          determines to be appropriate; and

19                “(D) provisions describing final agency ac-  
20          tions after exhaustion of administrative appeals  
21          from determinations of the Secretary under  
22          paragraph (7).

23          “(f) NO EFFECT ON OTHER LAW.—Nothing in this  
24          section affects the application of—

25                “(1) any Federal environmental law;

1           “(2) the Surface Mining Control and Reclama-  
2           tion Act of 1977 (30 U.S.C. 1201 et seq.); or

3           “(3) except as otherwise provided in this title,  
4           the Indian Mineral Development Act of 1982 (25  
5           U.S.C. 2101 et seq.).

6           “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
7           are authorized to be appropriated to the Secretary such  
8           sums as are necessary for each of fiscal years 2006  
9           through 2016 to carry out this section and to make grants  
10          or provide other appropriate assistance to Indian tribes  
11          to assist the Indian tribes in developing and implementing  
12          tribal energy resource agreements in accordance with this  
13          section.

14       **“SEC. 2605. FEDERAL POWER MARKETING ADMINISTRA-**  
15                               **TIONS.**

16           “(a) DEFINITIONS.—In this section:

17                   “(1) The term “Administrator” means the Ad-  
18                   ministrator of the Bonneville Power Administration  
19                   and the Administrator of the Western Area Power  
20                   Administration.

21                   “(2) The term “power marketing administra-  
22                   tion” means—

23                               “(A) the Bonneville Power Administration;

24                               “(B) the Western Area Power Administra-  
25                   tion; and

1           “(C) any other power administration the  
2           power allocation of which is used by or for the  
3           benefit of an Indian tribe located in the service  
4           area of the administration.

5           “(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY  
6 DEVELOPMENT.—Each Administrator shall encourage In-  
7 dian tribal energy development by taking such actions as  
8 the Administrators determine to be appropriate, including  
9 administration of programs of the power marketing ad-  
10 ministration, in accordance with this section.

11          “(c) ACTION BY ADMINISTRATORS.—In carrying out  
12 this section, in accordance with laws in existence on the  
13 date of enactment of the Energy Policy Act of 2005—

14           “(1) each Administrator shall consider the  
15           unique relationship that exists between the United  
16           States and Indian tribes;

17           “(2) power allocations from the Western Area  
18           Power Administration to Indian tribes may be used  
19           to meet firming and reserve needs of Indian-owned  
20           energy projects on Indian land;

21           “(3) the Administrator of the Western Area  
22           Power Administration may purchase non-federally  
23           generated power from Indian tribes to meet the  
24           firming and reserve requirements of the Western  
25           Area Power Administration; and

1 “(4) each Administrator shall not—

2 “(A) pay more than the prevailing market  
3 price for an energy product; or

4 “(B) obtain less than prevailing market  
5 terms and conditions.

6 “(d) ASSISTANCE FOR TRANSMISSION SYSTEM  
7 USE.—

8 “(1) An Administrator may provide technical  
9 assistance to Indian tribes seeking to use the high-  
10 voltage transmission system for delivery of electric  
11 power.

12 “(2) The costs of technical assistance provided  
13 under paragraph (1) shall be funded—

14 “(A) by the Secretary of Energy using  
15 nonreimbursable funds appropriated for that  
16 purpose; or

17 “(B) by any appropriate Indian tribe.

18 “(e) POWER ALLOCATION STUDY.—Not later than 2  
19 years after the date of enactment of the Energy Policy  
20 Act of 2005, the Secretary of Energy shall submit to Con-  
21 gress a report that—

22 “(1) describes the use by Indian tribes of Fed-  
23 eral power allocations of the power marketing ad-  
24 ministration (or power sold by the Southwestern  
25 Power Administration) to or for the benefit of In-

1       dian tribes in a service area of the power marketing  
2       administration; and

3           “(2) identifies—

4               “(A) the quantity of power allocated to, or  
5               used for the benefit of, Indian tribes by the  
6               Western Area Power Administration;

7               “(B) the quantity of power sold to Indian  
8               tribes by any other power marketing adminis-  
9               tration; and

10              “(C) barriers that impede tribal access to  
11              and use of Federal power, including an assess-  
12              ment of opportunities to remove those barriers  
13              and improve the ability of power marketing ad-  
14              ministrations to deliver Federal power.

15       “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
16       are authorized to be appropriated to carry out this section  
17       \$750,000, non-reimbursable, to remain available until ex-  
18       pired.

19       **“SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.**

20           “(a) STUDY.—The Secretary of Energy, in coordina-  
21       tion with the Secretary of the Army and the Secretary,  
22       shall conduct a study of the cost and feasibility of devel-  
23       oping a demonstration project that uses wind energy gen-  
24       erated by Indian tribes and hydropower generated by the

1 Army Corps of Engineers on the Missouri River to supply  
2 firming power to the Western Area Power Administration.

3 “(b) SCOPE OF STUDY.—The study shall—

4 “(1) determine the feasibility of blending wind  
5 energy and hydropower generated from the Missouri  
6 River dams operated by the Army Corps of Engi-  
7 neers;

8 “(2) review historical and projected require-  
9 ments for, and patterns of availability and use of,  
10 firming power;

11 “(3) assess the wind energy resource potential  
12 on tribal land and projected cost savings through a  
13 blend of wind and hydropower over a 30-year period;

14 “(4) determine seasonal capacity needs and as-  
15 sociated transmission upgrades for integration of  
16 tribal wind generation; and

17 “(5) include an independent tribal engineer as  
18 a study team member.

19 “(c) REPORT.—Not later than 1 year after the date  
20 of enactment of the Energy Policy Act of 2005, the Sec-  
21 retary and the Secretary of the Army shall submit to Con-  
22 gress a report that describes the results of the study, in-  
23 cluding—

24 “(1) an analysis of the potential energy cost or  
25 benefits to the customers of the Western Area Power



1 Administration through the use of combined wind  
2 and hydropower;

3 “(2) an evaluation of whether a combined wind  
4 and hydropower system can reduce reservoir fluctua-  
5 tion, enhance efficient and reliable energy produc-  
6 tion, and provide Missouri River management flexi-  
7 bility;

8 “(3) recommendations for a demonstration  
9 project to be carried out by the Western Area Power  
10 Administration, in partnership with an Indian tribal  
11 government or tribal energy resource development  
12 organization, to demonstrate the feasibility and po-  
13 tential of using wind energy produced on Indian  
14 land to supply firming energy to the Western Area  
15 Power Administration or any other Federal power  
16 marketing agency; and

17 “(4) an identification of—

18 “(A) the economic and environmental costs  
19 of, or benefits to be realized through, a Fed-  
20 eral-tribal partnership; and

21 “(B) the manner in which a Federal-tribal  
22 partnership could contribute to the energy secu-  
23 rity of the United States.

24 “(d) FUNDING.—

1 “(1) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated to carry out  
3 this section \$1,000,000, to remain available until ex-  
4 pended.

5 “(2) NONREIMBURSABILITY.—Costs incurred  
6 by the Secretary in carrying out this section shall be  
7 nonreimbursable.”.

8 (b) CONFORMING AMENDMENTS.—The table of con-  
9 tents for the Energy Policy Act of 1992 is amended by  
10 striking the items relating to title XXVI and inserting the  
11 following:

“Sec. 2601. Definitions.

“Sec. 2602. Indian tribal energy resource development.

“Sec. 2603. Indian tribal energy resource regulation.

“Sec. 2604. Leases, business agreements, and rights-of-way in-  
volving energy development or transmission.

“Sec. 2605. Federal Power Marketing Administrations.

“Sec. 2606. Wind and hydropower feasibility study.”.

12 **SEC. 504. FOUR CORNERS TRANSMISSION LINE PROJECT**  
13 **AND ELECTRIFICATION.**

14 (a) TRANSMISSION LINE PROJECT.—The Dine  
15 Power Authority, an enterprise of the Navajo Nation, shall  
16 be eligible to receive grants and other assistance under  
17 section 217 of the Department of Energy Organization  
18 Act, as added by section 502, and section 2602 of the En-  
19 ergy Policy Act of 1992, as amended by this Act, for ac-  
20 tivities associated with the development of a transmission  
21 line from the Four Corners Area to southern Nevada, in-  
22 cluding related power generation opportunities.

1 (b) NAVAJO ELECTRIFICATION.—Section 602 of  
2 Public Law 106-511 (114 Stat. 2376) is amended—

3 (1) in subsection (a)—

4 (A) in the first sentence, by striking “5-  
5 year” and inserting “10-year”; and

6 (B) in the third sentence, by striking  
7 “2006” and inserting “2011”; and

8 (2) in the first sentence of subsection (e) by  
9 striking “2006” and inserting “2011”.

10 **SEC. 505. ENERGY EFFICIENCY IN FEDERALLY ASSISTED**  
11 **HOUSING.**

12 (a) IN GENERAL.—The Secretary of Housing and  
13 Urban Development shall promote energy conservation in  
14 housing that is located on Indian land and assisted with  
15 Federal resources through—

16 (1) the use of energy-efficient technologies and  
17 innovations (including the procurement of energy-ef-  
18 ficient refrigerators and other appliances);

19 (2) the promotion of shared savings contracts;  
20 and

21 (3) the use and implementation of such other  
22 similar technologies and innovations as the Secretary  
23 of Housing and Urban Development considers to be  
24 appropriate.

1 (b) AMENDMENT.—Section 202(2) of the Native  
 2 American Housing and Self-Determination Act of 1996  
 3 (25 U.S.C. 4132(2)) is amended by inserting “improve-  
 4 ment to achieve greater energy efficiency,” after “plan-  
 5 ning,”.

6 **SEC. 506. CONSULTATION WITH INDIAN TRIBES.**

7 In carrying out this Act and the amendments made  
 8 by this Act, the Secretary of Energy and the Secretary  
 9 shall, as appropriate and to the maximum extent prac-  
 10 ticable, involve and consult with Indian tribes in a manner  
 11 that is consistent with the Federal trust and the govern-  
 12 ment-to-government relationships between Indian tribes  
 13 and the United States.

14 **TITLE VI—NUCLEAR MATTERS**  
 15 **Subtitle A—Price-Anderson Act**  
 16 **Amendments**

17 **SEC. 601. SHORT TITLE.**

18 This subtitle may be cited as the “Price-Anderson  
 19 Amendments Act of 2005”.

20 **SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.**

21 (a) INDEMNIFICATION OF NUCLEAR REGULATORY  
 22 COMMISSION LICENSEES.—Section 170 c. of the Atomic  
 23 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—  
 24 (1) in the subsection heading, by striking “LI-  
 25 CENSES” and inserting “LICENSEES”; and

1           (2) by striking “December 31, 2003” each  
 2           place it appears and inserting “December 31,  
 3           2025”.

4           (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY  
 5 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-  
 6 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended  
 7 by striking “December 31, 2006” and inserting “Decem-  
 8 ber 31, 2025”.

9           (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL  
 10 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act  
 11 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-  
 12 gust 1, 2002” each place it appears and inserting “Decem-  
 13 ber 31, 2025”.

14 **SEC. 603. MAXIMUM ASSESSMENT.**

15           Section 170 of the Atomic Energy Act of 1954 (42  
 16 U.S.C. 2210) is amended—

17           (1) in the second proviso of the third sentence  
 18           of subsection b.(1)—

19                   (A) by striking “\$63,000,000” and insert-  
 20                   ing “\$95,800,000”; and

21                   (B) by striking “\$10,000,000 in any 1  
 22                   year” and inserting “\$15,000,000 in any 1 year  
 23                   (subject to adjustment for inflation under sub-  
 24                   section t.)”; and

25           (2) in subsection t.(1)—

1 (A) by inserting “total and annual” after  
 2 “amount of the maximum”;

3 (B) by striking “the date of the enactment  
 4 of the Price-Anderson Amendments Act of  
 5 1988” and inserting “August 20, 2003”; and

6 (C) in subparagraph (A), by striking “such  
 7 date of enactment” and inserting “August 20,  
 8 2003”.

9 **SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

10 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY  
 11 CONTRACTORS.—Section 170 d. of the Atomic Energy Act  
 12 of 1954 (42 U.S.C. 2210(d)) (as amended by section  
 13 602(b)) is amended by striking paragraph (2) and insert-  
 14 ing the following:

15 “(2) In an agreement of indemnification entered into  
 16 under paragraph (1), the Secretary—

17 “(A) may require the contractor to provide and  
 18 maintain financial protection of such a type and in  
 19 such amounts as the Secretary determines to be ap-  
 20 propriate to cover public liability arising out of or in  
 21 connection with the contractual activity; and

22 “(B) shall indemnify the persons indemnified  
 23 against the liability above the amount of the finan-  
 24 cial protection required, in the amount of  
 25 \$10,000,000,000 (subject to adjustment for inflation

1       under subsection t.) in the aggregate, for all persons  
2       indemnified in connection with the contract and for  
3       each nuclear incident, including such legal expenses  
4       incurred by the contractor as are approved by the  
5       Secretary.”.

6       (b) CONTRACT AMENDMENTS.—Section 170 d. of the  
7       Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) (as  
8       amended by section 602(b)) is amended by striking para-  
9       graph (3) and inserting the following:

10       “(3) All agreements of indemnification under which  
11       the Department of Energy (or predecessor agencies) may  
12       be required to indemnify any person under this section  
13       shall be considered to be amended, on the date of enact-  
14       ment of the Price-Anderson Amendments Act of 2005, to  
15       reflect the amount of indemnity for public liability and any  
16       applicable financial protection required of the contractor  
17       under this subsection.”.

18       (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the  
19       Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is  
20       amended—

21               (1) by striking “the maximum amount of finan-  
22       cial protection required under subsection b. or”; and  
23               (2) by striking “paragraph (3) of subsection d.,  
24       whichever amount is more” and inserting “para-  
25       graph (2) of subsection d.”.

1 **SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.**

2 (a) AMOUNT OF INDEMNIFICATION.—Section 170  
3 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.  
4 2210(d)(5)) is amended by striking “\$100,000,000” and  
5 inserting “\$500,000,000”.

6 (b) LIABILITY LIMIT.—Section 170 e.(4) of the  
7 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is  
8 amended by striking “\$100,000,000” and inserting  
9 “\$500,000,000”.

10 **SEC. 606. REPORTS.**

11 Section 170 p. of the Atomic Energy Act of 1954 (42  
12 U.S.C. 2210(p)) is amended by striking “August 1, 1998”  
13 and inserting “December 31, 2021”.

14 **SEC. 607. INFLATION ADJUSTMENT.**

15 Section 170 t. of the Atomic Energy Act of 1954 (42  
16 U.S.C. 2210(t)) (as amended by section 603(2)) is amend-  
17 ed—

18 (1) by redesignating paragraph (2) as para-  
19 graph (3); and

20 (2) by inserting after paragraph (1) the fol-  
21 lowing:

22 “(2) The Secretary shall adjust the amount of indem-  
23 nification provided under an agreement of indemnification  
24 under subsection d. not less than once during each 5-year  
25 period following July 1, 2003, in accordance with the ag-



1 gregate percentage change in the Consumer Price Index  
 2 since—

3 “(A) that date, in the case of the first adjust-  
 4 ment under this paragraph; or

5 “(B) the previous adjustment under this para-  
 6 graph.”.

7 **SEC. 608. TREATMENT OF MODULAR REACTORS.**

8 Section 170 b. of the Atomic Energy Act of 1954 (42  
 9 U.S.C. 2210(b)) (as amended by section 603) is amended  
 10 by adding at the end the following:

11 “(5)(A) For purposes of this section only, the Com-  
 12 mission shall consider a combination of facilities described  
 13 in subparagraph (B) to be a single facility having a rated  
 14 capacity of 100,000 electrical kilowatts or more.

15 “(B) A combination of facilities referred to in sub-  
 16 paragraph (A) is 2 or more facilities located at a single  
 17 site, each of which has a rated capacity of not less than  
 18 100,000 electrical kilowatts and not more than 300,000  
 19 electrical kilowatts, with a combined rated capacity of not  
 20 more than 1,300,000 electrical kilowatts.”.

21 **SEC. 609. APPLICABILITY.**

22 The amendments made by sections 603, 604, and 605  
 23 do not apply to a nuclear incident that occurs before the  
 24 date of enactment of this Act.

1 **SEC. 610. CIVIL PENALTIES.**

2 (a) REPEAL OF AUTOMATIC REMISSION.—Section  
3 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C.  
4 2282a(b)(2)) is amended by striking the last sentence.

5 (b) LIMITATION FOR NOT-FOR-PROFIT INSTITU-  
6 TIONS.—Section 234A of the Atomic Energy Act of 1954  
7 (42 U.S.C. 2282a) is amended by striking subsection d.  
8 and inserting the following:

9 “d.(1) Notwithstanding subsection a., in the case of  
10 any not-for-profit contractor, subcontractor, or supplier,  
11 the total amount of civil penalties paid under subsection  
12 a. may not exceed the total amount of fees paid within  
13 any 1-year period (as determined by the Secretary) under  
14 the contract under which the violation occurs.

15 “(2) In this section, the term ‘not-for-profit’ means  
16 that no part of the net earnings of the contractor, subcon-  
17 tractor, or supplier inures to the benefit of any natural  
18 person or for-profit artificial person.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall not apply to any violation of the Atomic  
21 Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring  
22 under a contract entered into before the date of enactment  
23 of this Act.

## **Subtitle B—General Nuclear Matters**

### **SEC. 621. MEDICAL ISOTOPE PRODUCTION.**

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) by redesignating subsections a. and b. as subsection b. and a., respectively, and moving the subsections so as to appear in alphabetical order;

(2) in subsection a. (as redesignated by paragraph (1)), by striking “a. As used in this section—” and inserting the following:

“a. DEFINITIONS.—In this section—”;

(3) in subsection b. (as redesignated by paragraph (1), by striking “b. The Commission” and inserting the following:

“b. RESTRICTIONS ON EXPORTS.—Except as provided in subsection c., the Commission”; and

(4) by adding at the end the following:

“c. MEDICAL ISOTOPE PRODUCTION.—

“(1) DEFINITIONS.—In this subsection:

“(A) MEDICAL ISOTOPE.—The term ‘medical isotope’ includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for

1 diagnostic, therapeutic procedures or for re-  
 2 search and development.

3 “(B) **RADIOPHARMACEUTICAL.**—The term  
 4 ‘radiopharmaceutical’ means a radioactive iso-  
 5 tope that—

6 “(i) contains byproduct material com-  
 7 bined with chemical or biological material;  
 8 and

9 “(ii) is designed to accumulate tempo-  
 10 rarily in a part of the body for—

11 “(I) therapeutic purposes; or

12 “(II) enabling the production of  
 13 a useful image for use in a diagnosis  
 14 of a medical condition.

15 “(C) **RECIPIENT COUNTRY.**—The term ‘re-  
 16 cipient country’ means Canada, Belgium,  
 17 France, Germany, and the Netherlands.

18 “(2) **LICENSES.**—The Commission may issue a  
 19 license authorizing the export (including shipment to  
 20 and use at intermediate and ultimate consignees  
 21 specified in the license) to a recipient country of  
 22 highly enriched uranium for medical isotope produc-  
 23 tion if, in addition to any other requirements of this  
 24 Act (except subsection b.), the Commission deter-  
 25 mines that—

1           “(A) a recipient country that supplies an  
2           assurance letter to the United States in connec-  
3           tion with the consideration by the Commission  
4           of the export license application has informed  
5           the United States that any intermediate con-  
6           signees and the ultimate consignee specified in  
7           the application are required to use the highly  
8           enriched uranium solely to produce medical iso-  
9           topes; and

10           “(B) the highly enriched uranium for med-  
11           ical isotope production will be irradiated only in  
12           a reactor in a recipient country that—

13                   “(i) uses an alternative nuclear reac-  
14                   tor fuel; or

15                   “(ii) is the subject of an agreement  
16                   with the United States to convert to an al-  
17                   ternative nuclear reactor fuel when alter-  
18                   native nuclear reactor fuel can be used in  
19                   the reactor.

20           “(3) REVIEW OF PHYSICAL PROTECTION RE-  
21           QUIREMENTS.—

22           “(A) IN GENERAL.—The Commission shall  
23           review the adequacy of physical protection re-  
24           quirements that, as of the date of an applica-  
25           tion under paragraph (2), are applicable to the

1 transportation and storage of highly enriched  
2 uranium for medical isotope production or con-  
3 trol of residual material after irradiation and  
4 extraction of medical isotopes.

5 “(B) IMPOSITION OF ADDITIONAL RE-  
6 QUIREMENTS.—If the Commission determines  
7 that additional physical protection requirements  
8 are necessary (including a limit on the quantity  
9 of highly enriched uranium that may be con-  
10 tained in a single shipment), the Commission  
11 shall impose the requirements as license condi-  
12 tions or through other appropriate means.

13 “(4) FIRST REPORT TO CONGRESS.—

14 “(A) NAS STUDY.—The Secretary shall  
15 enter into an arrangement with the National  
16 Academy of Sciences under which the National  
17 Academy of Sciences shall conduct a study to  
18 determine—

19 “(i) the feasibility of procuring sup-  
20 plies of medical isotopes from commercial  
21 sources that do not use highly enriched  
22 uranium;

23 “(ii) the current and projected de-  
24 mand and availability of medical isotopes  
25 in regular current domestic use;

1 “(iii) the progress being made by the  
2 Department of Energy and other agencies  
3 and entities to eliminate all use of highly  
4 enriched uranium in reactor fuel, reactor  
5 targets, and medical isotope production fa-  
6 cilities; and

7 “(iv) the potential cost differential in  
8 medical isotope production in the reactors  
9 and target processing facilities if the prod-  
10 ucts were derived from production systems  
11 that do not involve fuels and targets with  
12 highly enriched uranium.

13 “(B) FEASIBILITY.—For the purpose of  
14 this subsection, the use of low enriched uranium  
15 to produce medical isotopes shall be determined  
16 to be feasible if—

17 “(i) low enriched uranium targets  
18 have been developed and demonstrated for  
19 use in the reactors and target processing  
20 facilities that produce significant quantities  
21 of medical isotopes to serve United States  
22 needs for such isotopes;

23 “(ii) sufficient quantities of medical  
24 isotopes are available from low enriched

1 uranium targets and fuel to meet United  
2 States domestic needs; and

3 “(iii) the average anticipated total  
4 cost increase from production of medical  
5 isotopes in the facilities without use of  
6 highly enriched uranium is less than 10  
7 percent.

8 “(C) REPORT BY THE SECRETARY.—Not  
9 later than 5 years after the date of enactment  
10 of the Energy Policy Act of 2005, the Secretary  
11 shall submit to Congress a report that—

12 “(i) contains the findings of the Na-  
13 tional Academy of Sciences made in the  
14 study under subparagraph (A); and

15 “(ii) discloses the existence of any  
16 commitments from commercial producers  
17 to provide, not later than the date that is  
18 4 years after the date of submission of the  
19 report, domestic requirements for medical  
20 isotopes without use of highly enriched  
21 uranium consistent with the feasibility cri-  
22 teria described in subparagraph (B).

23 “(5) SECOND REPORT TO CONGRESS.—If the  
24 National Academy of Sciences determines in the  
25 study under paragraph (4)(A) that the procurement



1 of supplies of medical isotopes from commercial  
2 sources that do not use highly enriched uranium is  
3 feasible, but the Secretary is unable to report the ex-  
4 istence of commitments under paragraph (4)(C)(ii),  
5 not later than the date that is 6 years after the date  
6 of enactment of the Energy Policy Act of 2005, the  
7 Secretary shall submit to Congress a report that de-  
8 scribes options for developing domestic supplies of  
9 medical isotopes in quantities that are adequate to  
10 meet domestic demand without the use of highly en-  
11 riched uranium consistent with the cost increase de-  
12 scribed in paragraph (4)(B)(iii).

13 “(6) CERTIFICATION.—At such time as com-  
14 mercial facilities that do not use highly enriched  
15 uranium are capable of meeting domestic require-  
16 ments for medical isotopes, within the cost increase  
17 described in paragraph (4)(B)(iii) and without im-  
18 pairing the reliable supply of medical isotopes for  
19 domestic use, the Secretary shall submit to Congress  
20 a certification to that effect.

21 “(7) TERMINATION OF REVIEW.—After the Sec-  
22 retary submits a certification under paragraph (6),  
23 the Commission shall, by rule, terminate the review  
24 by the Commission of export license applications  
25 under this subsection.”.

1 **SEC. 622. SAFE DISPOSAL OF GREATER-THAN-CLASS C RA-**  
2 **DIOACTIVE WASTE.**

3 (a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE  
4 STORAGE FACILITY.—The Secretary shall provide to Con-  
5 gress official notification of the final designation of an en-  
6 tity within the Department to have the responsibility of  
7 completing activities needed to provide a facility for safely  
8 disposing of all greater-than-Class C low-level radioactive  
9 waste.

10 (b) REPORTS AND PLANS.—

11 (1) REPORT ON PERMANENT DISPOSAL FACIL-  
12 ITY.—

13 (A) PLAN REGARDING COST AND SCHED-  
14 ULE FOR COMPLETION OF EIS AND ROD.—Not  
15 later than 1 year after the date of enactment of  
16 this Act, the Secretary, in consultation with  
17 Congress, shall submit to Congress a report  
18 containing an estimate of the cost and a pro-  
19 posed schedule to complete an environmental  
20 impact statement and record of decision for a  
21 permanent disposal facility for greater-than-  
22 Class C radioactive waste.

23 (B) ANALYSIS OF ALTERNATIVES.—Before  
24 the Secretary makes a final decision on the dis-  
25 posal alternative or alternatives to be imple-  
26 mented, the Secretary shall—

(i) submit to Congress a report that describes all alternatives under consideration, including all information required in the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive waste that was submitted by the Secretary to Congress in February 1987; and

(ii) await action by Congress.

(2) SHORT-TERM PLAN FOR RECOVERY AND STORAGE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive sealed sources that pose a security threat until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall address estimated cost, resource, and facility needs.

**SEC. 623. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.**

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

1           (1) by inserting “a.” before “No nuclear mate-  
2       rials and equipment”; and

3           (2) by adding at the end the following:

4       “b.(1)(A) Notwithstanding any other provision of  
5       law, including section 121, and except as provided in para-  
6       graphs (2) and (3), no nuclear materials and equipment  
7       or sensitive nuclear technology, including items and assist-  
8       ance authorized by section 57 b. and regulated under part  
9       810 of title 10, Code of Federal Regulations (or a suc-  
10      cessor regulation), and nuclear-related items on the Com-  
11      merce Control List maintained under part 774 of title 15  
12      of the Code of Federal Regulations (or a successor regula-  
13      tion), shall be exported or reexported, or transferred or  
14      retransferred, whether directly or indirectly, and no Fed-  
15      eral agency shall issue any license, approval, or authoriza-  
16      tion for the export or reexport, or transfer, or retransfer,  
17      whether directly or indirectly, of the items or assistance  
18      described in this paragraph to any country the government  
19      of which has been identified by the Secretary of State as  
20      engaged in state sponsorship of terrorist activities.

21      “(B) Countries described in subparagraph (A) spe-  
22      cifically include any country the government of which has  
23      been determined by the Secretary of State to have repeat-  
24      edly provided support for acts of international terrorism  
25      under—

1           “(i) section 620A(a) of the Foreign Assistance  
2       Act of 1961 (22 U.S.C. 2371(a));

3           “(ii) section 6(j)(1) of the Export Administra-  
4       tion Act of 1979 (50 U.S.C. App. 2405(j)(1)); or

5           “(iii) section 40(d) of the Arms Export Control  
6       Act (22 U.S.C. 2780(d)).

7       “(2) This subsection does not apply to exports, reex-  
8       ports, transfers, or retransfers of radiation monitoring  
9       technologies, surveillance equipment, seals, cameras, tam-  
10      per-indication devices, nuclear detectors, monitoring sys-  
11      tems, or equipment necessary to safely store, transport,  
12      or remove hazardous materials, whether such items, serv-  
13      ices, or information are regulated by the Department of  
14      Energy, the Department of Commerce, or the Commis-  
15      sion, except to the extent that the technologies, equipment,  
16      seals, cameras, devices, detectors, or systems are available  
17      for use in the design or construction of nuclear reactors  
18      or nuclear weapons.

19       “(3) The President may waive the application of  
20      paragraph (1) to a country if the President determines  
21      and certifies to Congress that—

22           “(A) the waiver will not result in any increased  
23      risk that the country receiving the waiver will ac-  
24      quire nuclear weapons, nuclear reactors, or any ma-  
25      terials or components of nuclear weapons; and

1           “(B)(i) the government of the country has not  
2       within the preceding 12-month period willfully aided  
3       or abetted the international proliferation of nuclear  
4       explosive devices to individuals or groups or willfully  
5       aided and abetted an individual or groups in acquir-  
6       ing unsafeguarded nuclear materials;

7           “(ii) in the judgment of the President, the gov-  
8       ernment of the country has provided adequate,  
9       verifiable assurances that the country will cease its  
10      support for acts of international terrorism;

11          “(iii) the waiver of paragraph (1) is in the vital  
12      national security interest of the United States; or

13          “(iv) the waiver of paragraph (1) is essential to  
14      prevent or respond to a serious radiological hazard  
15      in the country receiving the waiver that may or does  
16      threaten public health and safety.”.

17      (b) APPLICABILITY TO EXPORTS APPROVED FOR  
18      TRANSFER BUT NOT TRANSFERRED.—Subsection b. of  
19      section 129 of Atomic Energy Act of 1954 (as added by  
20      subsection (a)), shall apply with respect to exports that  
21      have been approved for transfer as of the date of enact-  
22      ment of this Act but have not yet been transferred as of  
23      that date.

1 **SEC. 624. DECOMMISSIONING PILOT PROGRAM.**

2 (a) PILOT PROGRAM.—The Secretary shall establish  
 3 a decommissioning pilot program under which the Sec-  
 4 retary shall decommission and decontaminate the sodium-  
 5 cooled fast breeder experimental test-site reactor located  
 6 in northwest Arkansas, in accordance with the decommis-  
 7 sioning activities contained in the report of the Depart-  
 8 ment relating to the reactor, dated August 31, 1998.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
 10 authorized to be appropriated to the Secretary to carry  
 11 out this section \$16,000,000.

12 **Subtitle C—Next Generation**  
 13 **Nuclear Plant Project**

14 **SEC. 631. PROJECT ESTABLISHMENT.**

15 (a) ESTABLISHMENT.—The Secretary shall establish  
 16 a project to be known as the “Next Generation Nuclear  
 17 Plant Project” (referred to in this subtitle as the  
 18 “Project”).

19 (b) CONTENT.—The Project shall consist of the re-  
 20 search, development, design, construction, and operation  
 21 of a prototype plant, including a nuclear reactor that—

22 (1) is based on research and development activi-  
 23 ties supported by the Generation IV Nuclear Energy  
 24 Systems Initiative under section 942(d); and

25 (2) shall be used—  
 26 (A) to generate electricity;

1 (B) to produce hydrogen; or

2 (C) both to generate electricity and to  
3 produce hydrogen.

4 **SEC. 632. PROJECT MANAGEMENT.**

5 (a) DEPARTMENTAL MANAGEMENT.—

6 (1) IN GENERAL.—The Project shall be man-  
7 aged in the Department by the Office of Nuclear  
8 Energy, Science, and Technology.

9 (2) GENERATION IV NUCLEAR ENERGY SYS-  
10 TEMS PROGRAM.—The Secretary may combine the  
11 Project with the Generation IV Nuclear Energy Sys-  
12 tems Initiative.

13 (3) EXISTING DOE PROJECT MANAGEMENT EX-  
14 PERTISE.—The Secretary may utilize capabilities for  
15 review of construction projects for advanced sci-  
16 entific facilities within the Office of Science to track  
17 the progress of the Project.

18 (b) LABORATORY MANAGEMENT.—

19 (1) LEAD LABORATORY.—The Idaho National  
20 Laboratory shall be the lead National Laboratory for  
21 the Project and shall collaborate with other National  
22 Laboratories, institutions of higher education, other  
23 research institutes, industrial researchers, and inter-  
24 national researchers to carry out the Project.

25 (2) INDUSTRIAL PARTNERSHIPS.—



1 (A) IN GENERAL.—The Idaho National  
2 Laboratory shall organize a consortium of ap-  
3 propriate industrial partners that will carry out  
4 cost-shared research, development, design, and  
5 construction activities, and operate research fa-  
6 cilities, on behalf of the Project.

7 (B) COST-SHARING.—Activities of indus-  
8 trial partners funded by the Project shall be  
9 cost-shared in accordance with section 1002.

10 (C) PREFERENCE.—Preference in deter-  
11 mining the final structure of the consortium or  
12 any partnerships under this subtitle shall be  
13 given to a structure (including designating as a  
14 lead industrial partner an entity incorporated in  
15 the United States) that retains United States  
16 technological leadership in the Project while  
17 maximizing cost sharing opportunities and  
18 minimizing Federal funding responsibilities.

19 (3) PROTOTYPE PLANT SITING.—The prototype  
20 nuclear reactor and associated plant shall be sited at  
21 the Idaho National Laboratory in Idaho.

22 (4) REACTOR TEST CAPABILITIES.—The  
23 Project shall use, if appropriate, reactor test capa-  
24 bilities at the Idaho National Laboratory.

1           (5) OTHER LABORATORY CAPABILITIES.—The  
2       Project may use, if appropriate, facilities at other  
3       National Laboratories.

4   **SEC. 633. PROJECT ORGANIZATION.**

5       (a) MAJOR PROJECT ELEMENTS.—The Project shall  
6       consist of the following major program elements:

7           (1) High-temperature hydrogen production  
8       technology development and validation.

9           (2) Energy conversion technology development  
10      and validation.

11          (3) Nuclear fuel development, characterization,  
12      and qualification.

13          (4) Materials selection, development, testing,  
14      and qualification.

15          (5) Reactor and balance-of-plant design, engi-  
16      neering, safety analysis, and qualification.

17      (b) PROJECT PHASES.—The Project shall be con-  
18      ducted in the following phases:

19          (1) FIRST PROJECT PHASE.—A first project  
20      phase shall be conducted to—

21              (A) select and validate the appropriate  
22          technology under subsection (a)(1);

23              (B) carry out enabling research, develop-  
24          ment, and demonstration activities on tech-

1 nologies and components under paragraphs (2)  
2 through (4) of subsection (a);

3 (C) determine whether it is appropriate to  
4 combine electricity generation and hydrogen  
5 production in a single prototype nuclear reactor  
6 and plant; and

7 (D) carry out initial design activities for a  
8 prototype nuclear reactor and plant, including  
9 development of design methods and safety ana-  
10 lytical methods and studies under subsection  
11 (a)(5)

12 (2) SECOND PROJECT PHASE.—A second  
13 project phase shall be conducted to—

14 (A) continue appropriate activities under  
15 paragraphs (1) through (5) of subsection (a);

16 (B) develop, through a competitive process,  
17 a final design for the prototype nuclear reactor  
18 and plant;

19 (C) apply for licenses to construct and op-  
20 erate the prototype nuclear reactor from the  
21 Nuclear Regulatory Commission; and

22 (D) construct and start up operations of  
23 the prototype nuclear reactor and its associated  
24 hydrogen or electricity production facilities.

25 (c) PROJECT REQUIREMENTS.—

1           (1) IN GENERAL.—The Secretary shall ensure  
2           that the Project is structured so as to maximize the  
3           technical interchange and transfer of technologies  
4           and ideas into the Project from other sources of rel-  
5           evant expertise, including—

6                   (A) the nuclear power industry, including  
7                   nuclear powerplant construction firms, particu-  
8                   larly with respect to issues associated with  
9                   plant design, construction, and operational and  
10                  safety issues;

11                  (B) the chemical processing industry, par-  
12                  ticularly with respect to issues relating to—

13                          (i) the use of process energy for pro-  
14                          duction of hydrogen; and

15                          (ii) the integration of technologies de-  
16                          veloped by the Project into chemical proc-  
17                          essing environments; and

18                  (C) international efforts in areas related to  
19                  the Project, particularly with respect to hydro-  
20                  gen production technologies.

21           (2) INTERNATIONAL COLLABORATION.—

22                   (A) IN GENERAL.—The Secretary shall  
23                   seek international cooperation, participation,  
24                   and financial contributions for the Project.

1 (B) ASSISTANCE FROM INTERNATIONAL  
2 PARTNERS.—The Secretary, through the Idaho  
3 National Laboratory, may contract for assist-  
4 ance from specialists or facilities from member  
5 countries of the Generation IV International  
6 Forum, the Russian Federation, or other inter-  
7 national partners if the specialists or facilities  
8 provide access to cost-effective and relevant  
9 skills or test capabilities.

10 (C) PARTNER NATIONS.—The Project may  
11 involve demonstration of selected project objec-  
12 tives in a partner country.

13 (D) GENERATION IV INTERNATIONAL  
14 FORUM.—The Secretary shall ensure that inter-  
15 national activities of the Project are coordinated  
16 with the Generation IV International Forum.

17 (3) REVIEW BY NUCLEAR ENERGY RESEARCH  
18 ADVISORY COMMITTEE.—

19 (A) IN GENERAL.—The Nuclear Energy  
20 Research Advisory Committee of the Depart-  
21 ment (referred to in this paragraph as the  
22 “NERAC”) shall—

23 (i) review all program plans for the  
24 Project and all progress under the Project  
25 on an ongoing basis; and

1 (ii) ensure that important scientific,  
2 technical, safety, and program manage-  
3 ment issues receive attention in the Project  
4 and by the Secretary.

5 (B) ADDITIONAL EXPERTISE.—The  
6 NERAC shall supplement the expertise of  
7 NERAC or appoint subpanels to incorporate  
8 into the review by NERAC the relevant sources  
9 of expertise described under paragraph (1).

10 (C) INITIAL REVIEW.—Not later than 180  
11 days after the date of enactment of this Act,  
12 the NERAC shall—

13 (i) review existing program plans for  
14 the Project in light of the recommenda-  
15 tions of the document entitled “Design  
16 Features and Technology Uncertainties for  
17 the Next Generation Nuclear Plant,” dated  
18 June 30, 2004; and

19 (ii) address any recommendations of  
20 the document not incorporated in program  
21 plans for the Project.

22 (D) FIRST PROJECT PHASE REVIEW.—On  
23 a determination by the Secretary that the ap-  
24 propriate activities under the first project phase  
25 under subsection (b)(1) are nearly complete, the

1 Secretary shall request the NERAC to conduct  
2 a comprehensive review of the Project and to  
3 report to the Secretary the recommendation of  
4 NERAC concerning whether the Project is  
5 ready to proceed to the second project phase  
6 under subsection (b)(2).

7 (E) TRANSMITTAL OF REPORTS TO CON-  
8 GRESS.—Not later than 60 days after receiving  
9 any report from the NERAC related to the  
10 Project, the Secretary shall submit to the ap-  
11 propriate committees of the Senate and the  
12 House of Representatives a copy of the report,  
13 along with any additional views of the Secretary  
14 that the Secretary may consider appropriate.

15 **SEC. 634. NUCLEAR REGULATORY COMMISSION.**

16 (a) IN GENERAL.—In accordance with section 202 of  
17 the Energy Reorganization Act of 1974 (42 U.S.C. 5842),  
18 the Nuclear Regulatory Commission shall have licensing  
19 and regulatory authority for any reactor authorized under  
20 this subtitle.

21 (b) LICENSING STRATEGY.—Not later than 3 years  
22 after the date of enactment of this Act, the Secretary and  
23 the Chairman of the Nuclear Regulatory Commission shall  
24 jointly submit to the appropriate committees of the Senate

1 and the House of Representatives a licensing strategy for  
2 the prototype nuclear reactor, including—

3 (1) a description of ways in which current li-  
4 censing requirements relating to light-water reactors  
5 need to be adapted for the types of prototype nu-  
6 clear reactor being considered by the Project;

7 (2) a description of analytical tools that the  
8 Nuclear Regulatory Commission will have to develop  
9 to independently verify designs and performance  
10 characteristics of components, equipment, systems,  
11 or structures associated with the prototype nuclear  
12 reactor;

13 (3) other research or development activities that  
14 may be required on the part of the Nuclear Regu-  
15 latory Commission in order to review a license appli-  
16 cation for the prototype nuclear reactor; and

17 (4) an estimate of the budgetary requirements  
18 associated with the licensing strategy.

19 (c) ONGOING INTERACTION.—The Secretary shall  
20 seek the active participation of the Nuclear Regulatory  
21 Commission throughout the duration of the Project to—

22 (1) avoid design decisions that will compromise  
23 adequate safety margins in the design of the reactor  
24 or impair the accessibility of nuclear safety-related



1 components of the prototype reactor for inspection  
2 and maintenance;

3 (2) develop tools to facilitate inspection and  
4 maintenance needed for safety purposes; and

5 (3) develop risk-based criteria for any future  
6 commercial development of a similar reactor archi-  
7 tectures.

8 **SEC. 635. PROJECT TIMELINES AND AUTHORIZATION OF**  
9 **APPROPRIATIONS.**

10 (a) TARGET DATE TO COMPLETE THE FIRST  
11 PROJECT PHASE.—Not later than September 30, 2011—

12 (1) the Secretary shall select the technology to  
13 be used by the Project for high-temperature hydro-  
14 gen production and the initial design parameters for  
15 the prototype nuclear plant; or

16 (2) submit to Congress a report establishing an  
17 alternative date for making the selection.

18 (b) DESIGN COMPETITION FOR SECOND PROJECT  
19 PHASE.—

20 (1) IN GENERAL.—The Secretary, acting  
21 through the Idaho National Laboratory, shall fund  
22 not more than 4 teams for not more than 2 years  
23 to develop detailed proposals for competitive evalua-  
24 tion and selection of a single proposal for a final de-  
25 sign of the prototype nuclear reactor.

1           (2) SYSTEMS INTEGRATION.—The Secretary  
2           may structure Project activities in the second project  
3           phase to use the lead industrial partner of the com-  
4           petitively selected design under paragraph (1) in a  
5           systems integration role for final design and con-  
6           struction of the Project.

7           (c) TARGET DATE TO COMPLETE PROJECT CON-  
8           STRUCTION.—Not later than September 30, 2021—

9           (1) the Secretary shall complete construction  
10          and begin operations of the prototype nuclear reac-  
11          tor and associated energy or hydrogen facilities; or

12          (2) submit to Congress a report establishing an  
13          alternative date for completion.

14          (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
15          authorized to be appropriated to the Secretary for re-  
16          search and construction activities under this subtitle (in-  
17          cluding for transfer to the Nuclear Regulatory Commis-  
18          sion for activities under section 634 as appropriate)—

19          (1) \$1,250,000,000 for the period of fiscal  
20          years 2006 through 2015; and

21          (2) such sums as are necessary for each of fis-  
22          cal years 2016 through 2021.

# **TITLE VII—VEHICLES AND FUELS**

## **Subtitle A—Existing Programs**

### **SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.**

Section 400AA(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)) is amended by striking subparagraph (E) and inserting the following:

“(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of the requirements of this section for vehicles operated by the agency in a particular geographic area in which—

“(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

“(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

“(ii) The Secretary shall monitor compliance with this subparagraph by all fleets receiving a waiver.

“(iii) The Secretary shall report annually to Congress on the extent to which the requirements of this subpara-

1 graph are being achieved, including information on annual  
 2 reductions achieved from the use of petroleum-based fuels  
 3 and the problems, if any, encountered in acquiring alter-  
 4 native fuels.”.

5 **SEC. 702. ALTERNATIVE FUEL USE BY LIGHT DUTY VEHI-**  
 6 **CLES.**

7 Title V of the Energy Policy Act of 1992 (42 U.S.C.  
 8 13251 et seq.) is amended by adding at the end the fol-  
 9 lowing:

10 **“SEC. 516. TERMINATION OF AUTHORITY.**

11 “The authority provided by sections 501, 507, and  
 12 508 terminates the earlier of—

13 “(1) September 30, 2015; or

14 “(2) the date, the Secretary has established, by  
 15 rule, a replacement program that achieves the goals  
 16 of those sections.”.

17 **SEC. 703. INCREMENTAL COST ALLOCATION.**

18 Section 303(c) of the Energy Policy Act of 1992 (42  
 19 U.S.C. 13212(c)) is amended by striking “may” and in-  
 20 serting “shall”.

21 **SEC. 704. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.**

22 (a) **ALTERNATIVE COMPLIANCE.**—Title V of the En-  
 23 ergy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is  
 24 amended—

1           (1) by redesignating section 514 (42 U.S.C.  
2       13264) as section 515; and

3           (2) by inserting after section 513 (42 U.S.C.  
4       13263) the following:

5       **“SEC. 514. ALTERNATIVE COMPLIANCE.**

6           “(a) APPLICATION FOR WAIVER.—Any covered per-  
7       son subject to section 501 and any State subject to section  
8       507(o) may petition the Secretary for a waiver of the ap-  
9       plicable requirements of section 501 or 507(o).

10          “(b) GRANT OF WAIVER.—The Secretary shall grant  
11       a waiver of the requirements of section 501 or 507(o) on  
12       a showing that the fleet owned, operated, leased, or other-  
13       wise controlled by the State or covered person—

14               “(1) will achieve a reduction in the annual con-  
15       sumption of petroleum fuels by the fleet equal to—

16                       “(A) the reduction in consumption of pe-  
17       troleum that would result from 100 percent cu-  
18       mulative compliance with the fuel use require-  
19       ments of section 501; or

20                       “(B) in the case of an entity covered under  
21       section 507(o), a reduction equal to the annual  
22       consumption by the State entity of alternative  
23       fuels if all of the cumulative alternative fuel ve-  
24       hicles of the State entity given credit under sec-

1           tion 508 were to use alternative fuel 100 per-  
2           cent of the time; and

3           “(2) is in compliance with all applicable vehicle  
4           emission standards established by the Administrator  
5           of the Environmental Protection Agency under the  
6           Clean Air Act (42 U.S.C. 7401 et seq.).

7           “(c) REVOCATION OF WAIVER.—The Secretary shall  
8           revoke any waiver granted under this section if the State  
9           or covered person fails to comply with subsection (b).”.

10          (b) CREDITS.—Section 508(a) of the Energy Policy  
11       Act of 1992 (42 U.S.C. 13258(a)) is amended—

12               (1) by striking “The Secretary” and inserting  
13               the following:

14                       “(1) The Secretary”; and

15                       (2) by adding at the end the following:

16                       “(2) Not later than January 31, 2007, the Sec-  
17               retary shall—

18                               “(A) allocate credit in an amount to be de-  
19               termined by the Secretary for—

20                                       “(i) acquisition of—

21   “(I) a light-duty hybrid electric  
22                                       vehicle;

23   “(II) a plug-in hybrid electric ve-  
24                                       hicle;

25   “(III) a fuel cell electric vehicle;

1 “(IV) a medium- or heavy-duty  
2 hybrid electric vehicle;

3 “(V) a neighborhood electric ve-  
4 hicle; or

5 “(VI) a medium- or heavy-duty  
6 dedicated vehicle; and

7 “(ii) investment in qualified alter-  
8 native fuel infrastructure or nonroad  
9 equipment, as determined by the Sec-  
10 retary; and

11 “(B) allocate more than 1, but not to ex-  
12 ceed 5, credits for investment in an emerging  
13 technology relating to any vehicle described in  
14 subparagraph (A) to encourage—

15 “(i) a reduction in petroleum demand;

16 “(ii) technological advancement; and

17 “(iii) environmental safety.”.

18 (c) TABLE OF CONTENTS AMENDMENT.—The table  
19 of contents of the Energy Policy Act of 1992 (42 U.S.C.  
20 prec. 13201) is amended by striking the item relating to  
21 section 514 and inserting the following:

“Sec. 514. Alternative compliance.

“Sec. 515. Authorization of appropriations.

“Sec. 516. Termination of authority.”.

1 **SEC. 705. REPORT CONCERNING COMPLIANCE WITH AL-**  
 2 **TERNATIVE FUELED VEHICLE PURCHASING**  
 3 **REQUIREMENTS.**

4 Section 310(b)(1) of the Energy Policy Act of 1992  
 5 (42 U.S.C. 13218(b)(1)) is amended by striking “1 year  
 6 after the date of enactment of this subsection” and insert-  
 7 ing “February 15, 2006”.

8 **Subtitle B—Automobile Efficiency**

9 **SEC. 711. AUTHORIZATION OF APPROPRIATIONS FOR IM-**  
 10 **PLEMENTATION AND ENFORCEMENT OF**  
 11 **FUEL ECONOMY STANDARDS.**

12 In addition to any other funds authorized by law,  
 13 there is authorized to be appropriated to the National  
 14 Highway Traffic Safety Administration to carry out its ob-  
 15 ligations with respect to average fuel economy standards  
 16 \$2,000,000 for each of fiscal years 2006 through 2010.

17 **Subtitle C—Miscellaneous**

18 **SEC. 721. RAILROAD EFFICIENCY.**

19 (a) ESTABLISHMENT.—The Secretary shall (in co-  
 20 operation with the Secretary of Transportation and the  
 21 Administrator of the Environmental Protection Agency)  
 22 establish a cost-shared, public-private research partner-  
 23 ship involving the Federal Government, railroad carriers,  
 24 locomotive manufacturers and equipment suppliers, and  
 25 the Association of American Railroads, to develop and  
 26 demonstrate railroad locomotive technologies that increase



1 fuel economy, reduce emissions, and lower costs of oper-  
 2 ation.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
 4 are authorized to be appropriated to the Secretary to carry  
 5 out this section—

6 (1) \$25,000,000 for fiscal year 2006;

7 (2) \$35,000,000 for fiscal year 2007; and

8 (3) \$50,000,000 for fiscal year 2008.

9 **SEC. 722. CONSERVE BY BICYCLING PROGRAM.**

10 (a) DEFINITIONS.—In this section:

11 (1) PROGRAM.—The term “program” means  
 12 the Conserve by Bicycling Program established by  
 13 subsection (b).

14 (2) SECRETARY.—The term “Secretary” means  
 15 the Secretary of Transportation.

16 (b) ESTABLISHMENT.—There is established within  
 17 the Department of Transportation a program to be known  
 18 as the “Conserve by Bicycling Program”.

19 (c) PROJECTS.—

20 (1) IN GENERAL.—In carrying out the program,  
 21 the Secretary shall establish not more than 10 pilot  
 22 projects that are—

23 (A) dispersed geographically throughout  
 24 the United States; and

1 (B) designed to conserve energy resources  
2 by encouraging the use of bicycles in place of  
3 motor vehicles.

4 (2) REQUIREMENTS.—A pilot project described  
5 in paragraph (1) shall—

6 (A) use education and marketing to con-  
7 vert motor vehicle trips to bicycle trips;

8 (B) document project results and energy  
9 savings (in estimated units of energy con-  
10 served);

11 (C) facilitate partnerships among inter-  
12 ested parties in at least 2 of the fields of—

- 13 (i) transportation;
- 14 (ii) law enforcement;
- 15 (iii) education;
- 16 (iv) public health;
- 17 (v) environment; and
- 18 (vi) energy;

19 (D) maximize bicycle facility investments;

20 (E) demonstrate methods that may be  
21 used in other regions of the United States; and

22 (F) facilitate the continuation of ongoing  
23 programs that are sustained by local resources.

1           (3) COST SHARING.—At least 20 percent of the  
2           cost of each pilot project described in paragraph (1)  
3           shall be provided from non-Federal sources.

4           (d) ENERGY AND BICYCLING RESEARCH STUDY.—

5           (1) IN GENERAL.—Not later than 2 years after  
6           the date of enactment of this Act, the Secretary  
7           shall enter into a contract with the National Acad-  
8           emy of Sciences for, and the National Academy of  
9           Sciences shall conduct and submit to Congress a re-  
10          port on, a study on the feasibility of converting  
11          motor vehicle trips to bicycle trips.

12          (2) COMPONENTS.—The study shall—

13                (A) document the results or progress of  
14                the pilot projects under subsection (c);

15                (B) determine the type and duration of  
16                motor vehicle trips that people in the United  
17                States may feasibly make by bicycle, taking into  
18                consideration factors such as—

19                       (i) weather;

20                       (ii) land use and traffic patterns;

21                       (iii) the carrying capacity of bicycles;

22                       and

23                       (iv) bicycle infrastructure;

1 (C) determine any energy savings that  
 2 would result from the conversion of motor vehi-  
 3 cle trips to bicycle trips;

4 (D) include a cost-benefit analysis of bicy-  
 5 cle infrastructure investments; and

6 (E) include a description of any factors  
 7 that would encourage more motor vehicle trips  
 8 to be replaced with bicycle trips.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
 10 authorized to be appropriated to the Secretary to carry  
 11 out this section \$6,200,000, to remain available until ex-  
 12 pended, of which—

13 (1) \$5,150,000 shall be used to carry out pilot  
 14 projects described in subsection (c);

15 (2) \$300,000 shall be used by the Secretary to  
 16 coordinate, publicize, and disseminate the results of  
 17 the program; and

18 (3) \$750,000 shall be used to carry out sub-  
 19 section (d).

20 **SEC. 723. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY**  
 21 **VEHICLES.**

22 (a) DEFINITIONS.—In this section:

23 (1) ADMINISTRATOR.—The term “Adminis-  
 24 trator” means the Administrator of the Environ-  
 25 mental Protection Agency.

1           (2) ADVANCED TRUCK STOP ELECTRIFICATION  
2       SYSTEM.—The term “advanced truck stop elec-  
3       trification system” means a stationary system that  
4       delivers heat, air conditioning, electricity, and com-  
5       munications, and is capable of providing verifiable  
6       and auditable evidence of use of those services, to a  
7       heavy-duty vehicle and any occupants of the heavy-  
8       duty vehicle without relying on components mounted  
9       onboard the heavy-duty vehicle for delivery of those  
10      services.

11           (3) AUXILIARY POWER UNIT.—The term “auxil-  
12      iary power unit” means an integrated system that—

13                (A) provides heat, air conditioning, engine  
14               warming, and electricity to the factory-installed  
15               components on a heavy-duty vehicle as if the  
16               main drive engine of the heavy-duty vehicle  
17               were running; and

18                (B) is certified by the Administrator under  
19               part 89 of title 40, Code of Federal Regulations  
20               (or any successor regulation), as meeting appli-  
21               cable emission standards.

22           (4) HEAVY-DUTY VEHICLE.—The term “heavy-  
23      duty vehicle” means a vehicle that—

24                (A) has a gross vehicle weight rating great-  
25               er than 12,500 pounds; and

1 (B) is powered by a diesel engine.

2 (5) IDLE REDUCTION TECHNOLOGY.—The term  
3 “idle reduction technology” means an advanced  
4 truck stop electrification system, auxiliary power  
5 unit, or other device or system of devices that—

6 (A) is used to reduce long-duration idling  
7 of a heavy-duty vehicle; and

8 (B) allows for the main drive engine or  
9 auxiliary refrigeration engine of a heavy-duty  
10 vehicle to be shut down.

11 (6) LONG-DURATION IDLING.—

12 (A) IN GENERAL.—The term “long-dura-  
13 tion idling” means the operation of a main  
14 drive engine or auxiliary refrigeration engine of  
15 a heavy-duty vehicle, for a period greater than  
16 15 consecutive minutes, at a time at which the  
17 main drive engine is not engaged in gear.

18 (B) EXCLUSIONS.—The term “long-dura-  
19 tion idling” does not include the operation of a  
20 main drive engine or auxiliary refrigeration en-  
21 gine of a heavy-duty vehicle during a routine  
22 stoppage associated with traffic movement or  
23 congestion.

24 (b) IDLE REDUCTION TECHNOLOGY BENEFITS, PRO-  
25 GRAMS, AND STUDIES.—

1           (1) IN GENERAL.—Not later than 90 days after  
2           the date of enactment of this Act, the Administrator  
3           shall—

4                   (A)(i) commence a review of the mobile  
5                   source air emission models of the Environ-  
6                   mental Protection Agency used under the Clean  
7                   Air Act (42 U.S.C. 7401 et seq.) to determine  
8                   whether the models accurately reflect the emis-  
9                   sions resulting from long-duration idling of  
10                  heavy-duty vehicles and other vehicles and en-  
11                  gines; and

12                  (ii) update those models as the Adminis-  
13                  trator determines to be appropriate; and

14                  (B)(i) commence a review of the emission  
15                  reductions achieved by the use of idle reduction  
16                  technology; and

17                  (ii) complete such revisions of the regula-  
18                  tions and guidance of the Environmental Pro-  
19                  tection Agency as the Administrator determines  
20                  to be appropriate.

21           (2) DEADLINE FOR COMPLETION.—Not later  
22           than 180 days after the date of enactment of this  
23           Act, the Administrator shall—

24                   (A) complete the reviews under subpara-  
25                   graphs (A)(i) and (B)(i) of paragraph (1); and

1 (B) prepare and make publicly available 1  
2 or more reports on the results of the reviews.

3 (3) DISCRETIONARY INCLUSIONS.—The reviews  
4 under subparagraphs (A)(i) and (B)(i) of paragraph  
5 (1) and the reports under paragraph (2)(B) may ad-  
6 dress the potential fuel savings resulting from use of  
7 idle reduction technology.

8 (4) IDLE REDUCTION DEPLOYMENT PRO-  
9 GRAM.—

10 (A) ESTABLISHMENT.—

11 (i) IN GENERAL.—Not later than 90  
12 days after the date of enactment of this  
13 Act, the Administrator, in consultation  
14 with the Secretary of Transportation, shall  
15 establish a program to support deployment  
16 of idle reduction technology.

17 (ii) PRIORITY.—The Administrator  
18 shall give priority to the deployment of idle  
19 reduction technology based on beneficial ef-  
20 fects on air quality and ability to lessen  
21 the emission of criteria air pollutants.

22 (B) FUNDING.—

23 (i) AUTHORIZATION OF APPROPRIA-  
24 TIONS.—There are authorized to be appro-



1            priated to the Administrator to carry out  
2            subparagraph (A)—

3                    (I) \$19,500,000 for fiscal year  
4                    2006;

5                    (II) \$30,000,000 for fiscal year  
6                    2007; and

7                    (III) \$45,000,000 for fiscal year  
8                    2008.

9                    (ii) COST SHARING.—Subject to clause  
10                    (iii), the Administrator shall require at  
11                    least 50 percent of the costs directly and  
12                    specifically related to any project under  
13                    this section to be provided from non-Fed-  
14                    eral sources.

15                    (iii) NECESSARY AND APPROPRIATE  
16                    REDUCTIONS.—The Administrator may re-  
17                    duce the non-Federal requirement under  
18                    clause (ii) if the Administrator determines  
19                    that the reduction is necessary and appro-  
20                    priate to meet the objectives of this sec-  
21                    tion.

22            (5) IDLING LOCATION STUDY.—

23                    (A) IN GENERAL.—Not later than 90 days  
24                    after the date of enactment of this Act, the Ad-  
25                    ministrator, in consultation with the Secretary

1 of Transportation, shall commence a study to  
 2 analyze all locations at which heavy-duty vehi-  
 3 cles stop for long-duration idling, including—

- 4 (i) truck stops;
- 5 (ii) rest areas;
- 6 (iii) border crossings;
- 7 (iv) ports;
- 8 (v) transfer facilities; and
- 9 (vi) private terminals.

10 (B) DEADLINE FOR COMPLETION.—Not  
 11 later than 180 days after the date of enactment  
 12 of this Act, the Administrator shall—

- 13 (i) complete the study under subpara-  
 14 graph (A); and
- 15 (ii) prepare and make publicly avail-  
 16 able 1 or more reports of the results of the  
 17 study.

18 (c) VEHICLE WEIGHT EXEMPTION.—Section 127(a)  
 19 of title 23, United States Code, is amended—

20 (1) by designating the first through eleventh  
 21 sentences as paragraphs (1) through (11), respec-  
 22 tively; and

23 (2) by adding at the end the following:

24 “(12) HEAVY DUTY VEHICLES.—

1           “(A) IN GENERAL.—Subject to subpara-  
2           graphs (B) and (C), in order to promote reduc-  
3           tion of fuel use and emissions because of engine  
4           idling, the maximum gross vehicle weight limit  
5           and the axle weight limit for any heavy-duty ve-  
6           hicle equipped with an idle reduction technology  
7           shall be increased by a quantity necessary to  
8           compensate for the additional weight of the idle  
9           reduction system.

10           “(B) MAXIMUM WEIGHT INCREASE.—The  
11           weight increase under subparagraph (A) shall  
12           be not greater than 250 pounds.

13           “(C) PROOF.—On request by a regulatory  
14           agency or law enforcement agency, the vehicle  
15           operator shall provide proof (through dem-  
16           onstration or certification) that—

17                   “(i) the idle reduction technology is  
18                   fully functional at all times; and

19                   “(ii) the 250-pound gross weight in-  
20                   crease is not used for any purpose other  
21                   than the use of idle reduction technology  
22                   described in subparagraph (A).”.

1 **SEC. 724. BIODIESEL ENGINE TESTING PROJECT.**

2 (a) DEFINITION OF BIODIESEL.—In this section, the  
3 term “biodiesel” means a diesel fuel substitute produced  
4 from nonpetroleum renewable resources that meets—

5 (1) the registration requirements for fuels and  
6 fuel additives established under section 211 of the  
7 Clean Air Act (42 U.S.C. 7545); and

8 (2) the American Society for Testing and Mate-  
9 rials Standard D6751–02a “Standard Specification  
10 for Biodiesel Fuel (B100) Blend Stock for Distillate  
11 Fuels”.

12 (b) PROGRAM.—Not later than 180 days after the  
13 date of enactment of this Act, the Secretary shall initiate  
14 a project, in partnership with diesel engine, diesel fuel in-  
15 jection system, and diesel vehicle manufacturers and diesel  
16 and biodiesel fuel providers, to provide biodiesel testing  
17 in advanced diesel engine and fuel system technology.

18 (c) SCOPE.—The project shall provide for testing to  
19 determine the impact of biodiesel on current and future  
20 emission control technologies, with emphasis on—

21 (1) the impact of biodiesel on emissions war-  
22 ranty, in-use liability, and anti-tampering provisions;

23 (2) the impact of long-term use of biodiesel on  
24 engine operations;

1           (3) the options for optimizing those technologies  
2       for both emissions and performance when switching  
3       between biodiesel and diesel fuel; and

4           (4) the impact of using biodiesel in those fuel-  
5       ing systems and engines when used as a blend with  
6       diesel fuel containing a maximum of 15-parts-per-  
7       million sulfur content, as mandated by the Adminis-  
8       trator of the Environmental Protection Agency dur-  
9       ing 2006.

10       (d) REPORT.—Not later than 2 years after the date  
11 of enactment of this Act, the Secretary shall submit to  
12 Congress a report on the results of the project, includ-  
13 ing—

14           (1) a comprehensive analysis of impacts from  
15       biodiesel on engine operation for both existing and  
16       expected future diesel technologies; and

17           (2) recommendations for ensuring optimal emis-  
18       sions reductions and engine performance with bio-  
19       diesel.

20       (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
21 authorized to be appropriated to carry out this section  
22 \$5,000,000 for each of fiscal years 2006 through 2008.

## **Subtitle D—Federal and State Procurement**

### **SEC. 731. DEFINITIONS.**

In this subtitle:

(1) DEPARTMENT.—The term “Department” means the Department of Energy.

(2) FUEL CELL.—The term “fuel cell” means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(3) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(4) STATIONARY; PORTABLE.—The terms “stationary” and “portable”, when used in reference to a fuel cell, include—

(A) continuous electric power; and

(B) backup electric power.

(5) TASK FORCE.—The term “Task Force” means the Hydrogen and Fuel Cell Technical Task Force established under section 102(a) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (as amended by section 801).

1           (6) TECHNICAL ADVISORY COMMITTEE.—The  
 2           term “Technical Advisory Committee” means the  
 3           independent Technical Advisory Committee selected  
 4           under section 102(d) of the Spark M. Matsunaga  
 5           Hydrogen Research, Development, and Demonstra-  
 6           tion Act of 1990 (as added by section 801).

7 **SEC. 732. FEDERAL AND STATE PROCUREMENT OF FUEL**  
 8                   **CELL VEHICLES AND HYDROGEN ENERGY**  
 9                   **SYSTEMS.**

10          (a) PURPOSES.—The purposes of this section are—

11               (1) to stimulate acceptance by the market of  
 12               fuel cell vehicles and hydrogen energy systems;

13               (2) to support development of technologies re-  
 14               lating to fuel cell vehicles, public refueling stations,  
 15               and hydrogen energy systems; and

16               (3) to require the Federal government, which is  
 17               the largest single user of energy in the United  
 18               States, to adopt those technologies as soon as prac-  
 19               ticable after the technologies are developed, in con-  
 20               junction with private industry partners.

21          (b) FEDERAL LEASES AND PURCHASES.—

22               (1) REQUIREMENT.—

23                   (A) IN GENERAL.—Not later than January  
 24                   1, 2010, the head of any Federal agency that  
 25                   uses a light-duty or heavy-duty vehicle fleet

1 shall lease or purchase fuel cell vehicles and hy-  
2 drogen energy systems to meet any applicable  
3 energy savings goal described in subsection (c).

4 (B) LEARNING DEMONSTRATION VEHI-  
5 CLES.—The Secretary may lease or purchase  
6 appropriate vehicles developed under section  
7 201 of the Spark M. Matsunaga Hydrogen Re-  
8 search, Development, and Demonstration Act of  
9 1990 (as added by section 801) to meet the re-  
10 quirement in subparagraph (A).

11 (2) COSTS OF LEASES AND PURCHASES.—

12 (A) IN GENERAL.—The Secretary, in co-  
13 operation with the Task Force and the Tech-  
14 nical Advisory Committee, shall pay to Federal  
15 agencies (or share the cost under interagency  
16 agreements) the difference in cost between—

17 (i) the cost to the agencies of leasing  
18 or purchasing fuel cell vehicles and hydro-  
19 gen energy systems under paragraph (1);  
20 and

21 (ii) the cost to the agencies of a fea-  
22 sible alternative to leasing or purchasing  
23 fuel cell vehicles and hydrogen energy sys-  
24 tems, as determined by the Secretary.



1 (B) COMPETITIVE COSTS AND MANAGE-  
2 MENT STRUCTURES.—In carrying out subpara-  
3 graph (A), the Secretary, in consultation with  
4 the agency, may use the General Services Ad-  
5 ministration or any commercial vendor to en-  
6 sure—

7 (i) a cost-effective purchase of a fuel  
8 cell vehicle or hydrogen energy system; or

9 (ii) a cost-effective management struc-  
10 ture of the lease of a fuel cell vehicle or hy-  
11 drogen energy system.

12 (3) EXCEPTION.—

13 (A) IN GENERAL.—If the Secretary deter-  
14 mines that the head of an agency described in  
15 paragraph (1) cannot find an appropriately effi-  
16 cient and reliable fuel cell vehicle or hydrogen  
17 energy system in accordance with paragraph  
18 (1), that agency shall be excepted from compli-  
19 ance with paragraph (1).

20 (B) CONSIDERATION.—In making a deter-  
21 mination under subparagraph (A), the Sec-  
22 retary shall consider—

23 (i) the needs of the agency; and

24 (ii) an evaluation performed by—

25 (I) the Task Force; or

1 (II) the Technical Advisory Com-  
2 mittee.

3 (c) ENERGY SAVINGS GOALS.—

4 (1) IN GENERAL.—

5 (A) REGULATIONS.—Not later than De-  
6 cember 31, 2006, the Secretary shall—

7 (i) in cooperation with the Task  
8 Force, promulgate regulations for the pe-  
9 riod of 2008 through 2010 that extend and  
10 augment energy savings goals for each  
11 Federal agency, in accordance with any  
12 Executive order issued after March 2000;  
13 and

14 (ii) promulgate regulations to expand  
15 the minimum Federal fleet requirement  
16 and credit allowances for fuel cell vehicle  
17 systems under section 303 of the Energy  
18 Policy Act of 1992 (42 U.S.C. 13212).

19 (B) REVIEW, EVALUATION, AND NEW REG-  
20 ULATIONS.—Not later than December 31,  
21 2010, the Secretary shall—

22 (i) review the regulations promulgated  
23 under subparagraph (A);

(ii) evaluate any progress made toward achieving energy savings by Federal agencies; and

(iii) promulgate new regulations for the period of 2011 through 2015 to achieve additional energy savings by Federal agencies relating to technical and cost-performance standards.

(2) OFFSETTING ENERGY SAVINGS GOALS.—An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal of the agency.

(d) COOPERATIVE PROGRAM WITH STATE AGENCIES.—

(1) IN GENERAL.—The Secretary may establish a cooperative program with State agencies managing motor vehicle fleets to encourage purchase of fuel cell vehicles by the agencies.

(2) INCENTIVES.—In carrying out the cooperative program, the Secretary may offer incentive payments to a State agency to assist with the cost of planning, differential purchases, and administration.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

- 1 (1) \$15,000,000 for fiscal year 2008;
- 2 (2) \$25,000,000 for fiscal year 2009;
- 3 (3) \$65,000,000 for fiscal year 2010; and
- 4 (4) such sums as are necessary for each of fis-
- 5 cal years 2011 through 2015.

6 **SEC. 733. FEDERAL PROCUREMENT OF STATIONARY, PORT-**  
7 **ABLE, AND MICRO FUEL CELLS.**

8 (a) PURPOSES.—The purposes of this section are—

- 9 (1) to stimulate acceptance by the market of
- 10 stationary, portable, and micro fuel cells; and
- 11 (2) to support development of technologies re-
- 12 lating to stationary, portable, and micro fuel cells.

13 (b) FEDERAL LEASES AND PURCHASES.—

- 14 (1) IN GENERAL.—Not later than January 1,
- 15 2006, the head of any Federal agency that uses elec-
- 16 trical power from stationary, portable, or microport-
- 17 able devices shall lease or purchase a stationary,
- 18 portable, or micro fuel cell to meet any applicable
- 19 energy savings goal described in subsection (c).

20 (2) COSTS OF LEASES AND PURCHASES.—

- 21 (A) IN GENERAL.—The Secretary, in co-
- 22 operation with the Task Force and the Tech-
- 23 nical Advisory Committee, shall pay the cost to
- 24 Federal agencies (or share the cost under inter-
- 25 agency agreements) of leasing or purchasing

stationary, portable, and micro fuel cells under paragraph (1).

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a stationary, portable, or micro fuel cell; or

(ii) a cost-effective management structure of the lease of a stationary, portable, or micro fuel cell.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable stationary, portable, or micro fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

- 1 (ii) an evaluation performed by—  
 2 (I) the Task Force; or  
 3 (II) the Technical Advisory Com-  
 4 mittee of the Task Force.

5 (c) ENERGY SAVINGS GOALS.—An agency that leases  
 6 or purchases a stationary, portable, or micro fuel cell in  
 7 accordance with subsection (b)(1) may use that lease or  
 8 purchase to count toward an energy savings goal described  
 9 in section 732(c)(1) that is applicable to the agency.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
 11 authorized to be appropriated to carry out this section—

- 12 (1) \$20,000,000 for fiscal year 2006;  
 13 (2) \$50,000,000 for fiscal year 2007;  
 14 (3) \$75,000,000 for fiscal year 2008;  
 15 (4) \$100,000,000 for fiscal year 2009;  
 16 (5) \$100,000,000 for fiscal year 2010; and  
 17 (6) such sums as are necessary for each of fis-  
 18 cal years 2011 through 2015.

## 19 **TITLE VIII—HYDROGEN**

### 20 **SEC. 801. HYDROGEN RESEARCH, DEVELOPMENT, AND** 21 **DEMONSTRATION.**

22 The Spark M. Matsunaga Hydrogen Research, Devel-  
 23 opment, and Demonstration Act of 1990 (42 U.S.C.  
 24 12401 et seq.) is amended to read as follows:

1 **“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2       “(a) SHORT TITLE.—This Act may be cited as the  
3 ‘Spark M. Matsunaga Hydrogen Research, Development,  
4 and Demonstration Act of 1990’.

5       “(b) TABLE OF CONTENTS.—The table of contents  
6 of this Act is as follows:

“Sec. 1. Short title; table of contents.

“Sec. 2. Purposes.

“Sec. 3. Definitions.

“TITLE I—HYDROGEN AND FUEL CELLS

“Sec. 101. Hydrogen and fuel cell technology research and development.

“Sec. 102. Task Force.

“Sec. 103. Technology transfer.

“Sec. 104. Authorization of appropriations.

“TITLE II—HYDROGEN AND FUEL CELL DEMONSTRATION

“Sec. 201. Hydrogen Supply and Fuel Cell Demonstration Program.

“Sec. 202. Authorization of appropriations.

“TITLE III—REGULATORY MANAGEMENT

“Sec. 301. Codes and standards.

“Sec. 302. Disclosure.

“Sec. 303. Authorization of appropriations.

“TITLE IV—REPORTS

“Sec. 401. Deployment of hydrogen technology.

“Sec. 402. Authorization of appropriations.

“TITLE V—TERMINATION OF AUTHORITY

“Sec. 501. Termination of authority.

7 **“SEC. 2. PURPOSES.**

8       “The purposes of this Act are—

9           “(1) to enable and promote comprehensive de-  
10 velopment, demonstration, and commercialization of  
11 hydrogen and fuel cell technology in partnership  
12 with industry;

1           “(2) to make critical public investments in  
2           building strong links to private industry, institutions  
3           of higher education, National Laboratories, and re-  
4           search institutions to expand innovation and indus-  
5           trial growth;

6           “(3) to build a mature hydrogen economy that  
7           creates fuel diversity in the massive transportation  
8           sector of the United States;

9           “(4) to sharply decrease the dependency of the  
10          United States on imported oil, eliminate most emis-  
11          sions from the transportation sector, and greatly en-  
12          hance our energy security; and

13          “(5) to create, strengthen, and protect a sus-  
14          tainable national energy economy.

15   **“SEC. 3. DEFINITIONS.**

16          “In this Act:

17               “(1) DEPARTMENT.—The term ‘Department’  
18               means the Department of Energy.

19               “(2) FUEL CELL.—The term ‘fuel cell’ means a  
20               device that directly converts the chemical energy of  
21               a fuel, which is supplied from an external source,  
22               and an oxidant into electricity by electrochemical  
23               processes occurring at separate electrodes in the de-  
24               vice.



1           “(3) HEAVY-DUTY VEHICLE.—The term ‘heavy-  
2           duty vehicle’ means a motor vehicle that—

3                   “(A) is rated at more than 8,500 pounds  
4                   gross vehicle weight;

5                   “(B) has a curb weight of more than 6,000  
6                   pounds; or

7                   “(C) has a basic vehicle frontal area in ex-  
8                   cess of 45 square feet.

9           “(4) INFRASTRUCTURE.—The term ‘infrastruc-  
10           ture’ means the equipment, systems, or facilities  
11           used to produce, distribute, deliver, or store hydro-  
12           gen (except for onboard storage).

13           “(5) LIGHT-DUTY VEHICLE.—The term ‘light-  
14           duty vehicle’ means a motor vehicle that is rated at  
15           8,500 or less pounds gross vehicle weight.

16           “(6) SECRETARY.—The term ‘Secretary’ means  
17           the Secretary of Energy.

18           “(7) STATIONARY; PORTABLE.—The terms ‘sta-  
19           tionary’ and ‘portable’, when used in reference to a  
20           fuel cell, include—

21                   “(A) continuous electric power; and

22                   “(B) backup electric power.

23           “(8) TASK FORCE.—The term ‘Task Force’  
24           means the Hydrogen and Fuel Cell Technical Task  
25           Force established under section 102(a).

5 **“TITLE I—HYDROGEN AND FUEL**  
6 **CELLS**

7 “SEC. 101. HYDROGEN AND FUEL CELL TECHNOLOGY RE-  
8 SEARCH AND DEVELOPMENT.

9           “(a) IN GENERAL.—The Secretary, in consultation  
10 with other Federal agencies and the private sector, shall  
11 conduct a research and development program on tech-  
12 nologies relating to the production, purification, distribu-  
13 tion, storage, and use of hydrogen energy, fuel cells, and  
14 related infrastructure.

15       “(b) GOAL.—The goal of the program shall be to  
16 demonstrate and commercialize the use of hydrogen for  
17 transportation (in light-duty vehicles and heavy-duty vehi-  
18 cles), utility, industrial, commercial and residential appli-  
19 cations.

“(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly

1 for hydrogen production, the supply of hydrogen, storage  
2 of hydrogen, and end uses of hydrogen that—

3 “(1) steadily increase production, distribution,  
4 and end use efficiency and reduce life-cycle emis-  
5 sions;

6 “(2) resolve critical problems relating to cata-  
7 lysts, membranes, storage, lightweight materials,  
8 electronic controls, and other problems that emerge  
9 from research and development;

10 “(3) enhance sources of renewable fuels and  
11 biofuels for hydrogen production; and

12 “(4) enable widespread use of distributed elec-  
13 tricity generation and storage.

14 “(d) PUBLIC EDUCATION AND RESEARCH.—In car-  
15 rying out this section, the Secretary shall support en-  
16 hanced public education and research conducted at institu-  
17 tions of higher education in fundamental sciences, applica-  
18 tion design, and systems concepts (including education  
19 and research relating to materials, subsystems,  
20 manufacturability, maintenance, and safety) relating to  
21 hydrogen and fuel cells.

22 “(e) COST SHARING.—The costs of carrying out  
23 projects and activities under this section shall be shared  
24 in accordance with section 1002 of the Energy Policy Act  
25 of 2005.

1   **“SEC. 102. TASK FORCE.**

2       “(a) ESTABLISHMENT.—The Secretary, in consulta-  
3   tion with the Director of the Office of Science and Tech-  
4   nology Policy, shall establish an interagency Task Force,  
5   to be known as the ‘Hydrogen and Fuel Cell Technical  
6   Task Force’ to advise the Secretary in carrying out pro-  
7   grams under this Act.

8       “(b) MEMBERSHIP.—

9           “(1) IN GENERAL.—The Task Force shall be  
10   comprised of such representatives of the Office of  
11   Science and Technology Policy, the Environmental  
12   Protection Agency, the Department of Transpor-  
13   tation, the Department of Defense, the National  
14   Aeronautics and Space Administration, and such  
15   other members, as the Secretary, in consultation  
16   with the Director of the Office of Science and Tech-  
17   nology Policy, determines to be appropriate.

18          “(2) VOTING.—A member of the Task Force  
19   that does not represent a Federal agency shall serve  
20   on the Task Force only in a nonvoting, advisory ca-  
21   pacity.

22          “(c) DUTIES.—The Task Force shall review and  
23   make any necessary recommendations to the Secretary on  
24   implementation and conduct of programs under this Act.

25          “(d) TECHNICAL ADVISORY COMMITTEE.—

1           “(1) IN GENERAL.—The Secretary shall select  
2           such number of members as the Secretary considers  
3           to be appropriate to form an independent, non-  
4           political Technical Advisory Committee.

5           “(2) MEMBERSHIP.—Each member of the  
6           Technical Advisory Committee shall have scientific,  
7           technical, or industrial expertise, as determined by  
8           the Secretary.

9           “(3) DUTIES.—The Technical Advisory Com-  
10          mittee shall provide technical advice and assistance  
11          to the Task Force and the Secretary.

12   **“SEC. 103. TECHNOLOGY TRANSFER.**

13          “In carrying out this Act, the Secretary shall carry  
14          out programs that—

15               “(1) provide for the transfer of critical hydro-  
16               gen and fuel cell technologies to the private sector;

17               “(2) accelerate wider application of those tech-  
18               nologies in the global market;

19               “(3) foster the exchange of generic, nonpropri-  
20               etary information; and

21               “(4) assess technical and commercial viability  
22               of technologies relating to the production, distribu-  
23               tion, storage, and use of hydrogen energy and fuel  
24               cells.

1   **“SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

2           “(a) HYDROGEN SUPPLY.—There are authorized to  
3 be appropriated to carry out projects and activities relat-  
4 ing to hydrogen production, storage, distribution and dis-  
5 pensing, transport, education and coordination, and tech-  
6 nology transfer under this title—

7           “(1) \$160,000,000 for fiscal year 2006;

8           “(2) \$200,000,000 for fiscal year 2007;

9           “(3) \$220,000,000 for fiscal year 2008;

10          “(4) \$230,000,000 for fiscal year 2009;

11          “(5) \$250,000,000 for fiscal year 2010; and

12          “(6) such sums as are necessary for each of fis-  
13 cal years 2011 through 2015.

14          “(b) FUEL CELL TECHNOLOGIES.—There are au-  
15 thorized to be appropriated to carry out projects and ac-  
16 tivities relating to fuel cell technologies under this title—

17          “(1) \$150,000,000 for fiscal year 2006;

18          “(2) \$160,000,000 for fiscal year 2007;

19          “(3) \$170,000,000 for fiscal year 2008;

20          “(4) \$180,000,000 for fiscal year 2009;

21          “(5) \$200,000,000 for fiscal year 2010; and

22          “(6) such sums as are necessary for each of fis-  
23 cal years 2011 through 2015.

1       **“TITLE II—HYDROGEN AND**  
2       **FUEL CELL DEMONSTRATION**

3       **“SEC. 201. HYDROGEN SUPPLY AND FUEL CELL DEM-**  
4       **ONSTRATION PROGRAM.**

5       “(a) IN GENERAL.—The Secretary, in consultation  
6 with the Task Force and the Technical Advisory Com-  
7 mittee, shall carry out a program to demonstrate develop-  
8 mental hydrogen and fuel cell systems for mobile, portable,  
9 μand stationary uses, using improved versions of the  
10 learning demonstrations program concept of the Depart-  
11 ment including demonstrations involving—

12               “(1) light-duty vehicles;

13               “(2) heavy-duty vehicles;

14               “(3) fleet vehicles;

15               “(4) specialty industrial and farm vehicles; and

16               “(5) commercial and residential portable, con-  
17 tinuous, and backup electric power generation.

18       “(b) OTHER DEMONSTRATION PROGRAMS.—To de-  
19 velop widespread hydrogen supply and use options, and  
20 assist evolution of technology, the Secretary shall—

21               “(1) carry out demonstrations of evolving hy-  
22 drogen and fuel cell technologies in national parks,  
23 remote island areas, and on Indian tribal land, as  
24 selected by the Secretary;

1           “(2) in accordance with any code or standards  
 2           developed in a region, fund prototype, pilot fleet,  
 3           and infrastructure regional hydrogen supply cor-  
 4           ridors along the interstate highway system in varied  
 5           climates across the United States; and

6           “(3) fund demonstration programs that explore  
 7           the use of hydrogen blends, hybrid hydrogen, and  
 8           hydrogen reformed from renewable agricultural  
 9           fuels, including the use of hydrogen in hybrid elec-  
 10          tric, heavier duty, and advanced internal combus-  
 11          tion-powered vehicles.

12          “(c) SYSTEM DEMONSTRATIONS.—

13           “(1) IN GENERAL.—As a component of the  
 14           demonstration program under this section, the Sec-  
 15           retary shall provide grants, on a cost share basis as  
 16           appropriate, to eligible entities (as determined by the  
 17           Secretary) for use in—

18           “(A) devising system design concepts that  
 19           provide for the use of advanced composite vehi-  
 20           cles in programs under section 732 of the En-  
 21           ergy Policy Act of 2005 that—

22           “(i) have as a primary goal the reduc-  
 23           tion of drive energy requirements;

24           “(ii) after 2010, add another research  
 25           and development phase to the vehicle and



1 infrastructure partnerships developed  
2 under the learning demonstrations pro-  
3 gram concept of the Department; and

4 “(iii) are managed through an en-  
5 hanced FreedomCAR program within the  
6 Department that encourages involvement  
7 in cost-shared projects by manufacturers  
8 and governments; and

9 “(B) designing a local distributed energy  
10 system that—

11 “(i) incorporates renewable hydrogen  
12 production, off-grid electricity production,  
13 and fleet applications in industrial or com-  
14 mercial service;

15 “(ii) integrates energy or applications  
16 described in clause (i), such as stationary,  
17 portable, micro, and mobile fuel cells, into  
18 a high-density commercial or residential  
19 building complex or agricultural commu-  
20 nity; and

21 “(iii) is managed in cooperation with  
22 industry, State, tribal, and local govern-  
23 ments, agricultural organizations, and non-  
24 profit generators and distributors of elec-  
25 tricity.

1           “(2) COST SHARING.—The costs of carrying out  
 2           a project or activity under this subsection shall be  
 3           shared in accordance with section 1002 of the En-  
 4           ergy Policy Act of 2005.

5           “(d) IDENTIFICATION OF NEW RESEARCH AND DE-  
 6           VELOPMENT REQUIREMENTS.—In carrying out the dem-  
 7           onstrations under subsection (a), the Secretary, in con-  
 8           sultation with the Task Force and the Technical Advisory  
 9           Committee, shall—

10           “(1) after 2008 for stationary and portable ap-  
 11           plications, and after 2010 for vehicles, identify new  
 12           research and development requirements that refine  
 13           technological concepts, planning, and applications;  
 14           and

15           “(2) during the second phase of the learning  
 16           demonstrations under subsection (c)(1)(A)(ii) rede-  
 17           sign subsequent research and development to incor-  
 18           porate those requirements.

19   **“SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

20           “There are authorized to be appropriated to carry out  
 21           this title—

22           “(1) \$185,000,000 for fiscal year 2006;

23           “(2) \$200,000,000 for fiscal year 2007;

24           “(3) \$250,000,000 for fiscal year 2008;

25           “(4) \$300,000,000 for fiscal year 2009;

1 “(5) \$375,000,000 for fiscal year 2010; and

2 “(6) such sums as are necessary for each of fis-  
3 cal years 2011 through 2015.

4 **“TITLE III—REGULATORY**  
5 **MANAGEMENT**

6 **“SEC. 301. CODES AND STANDARDS.**

7 “(a) IN GENERAL.—The Secretary, in cooperation  
8 with the Task Force, shall provide grants to, or offer to  
9 enter into contracts with such professional organizations,  
10 public service organizations, and government agencies as  
11 the Secretary determines appropriate to support timely  
12 and extensive development of safety codes and standards  
13 relating to fuel cell vehicles, hydrogen energy systems, and  
14 stationary, portable, and micro fuel cells.

15 “(b) EDUCATIONAL EFFORTS.—The Secretary shall  
16 support educational efforts by organizations and agencies  
17 described in subsection (a) to share information, including  
18 information relating to best practices, among those organi-  
19 zations and agencies.

20 **“SEC. 302. DISCLOSURE.**

21 “Section 623 of the Energy Policy Act of 1992 (42  
22 U.S.C. 13293) shall apply to any project carried out  
23 through a grant, cooperative agreement, or contract under  
24 this Act.

1 **“SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated to carry out  
3 this title—

4 “(1) \$4,000,000 for fiscal year 2006;

5 “(2) \$7,000,000 for fiscal year 2007;

6 “(3) \$8,000,000 for fiscal year 2008;

7 “(4) \$10,000,000 for fiscal year 2009;

8 “(5) \$9,000,000 for fiscal year 2010; and

9 “(6) such sums as are necessary for each of fis-  
10 cal years 2011 and 2012.

11 **“TITLE IV—REPORTS**

12 **“SEC. 401. DEPLOYMENT OF HYDROGEN TECHNOLOGY.**

13 “(a) SECRETARY.—Subject to subsection (c), not  
14 later than 2 years after the date of enactment of the Hy-  
15 drogen and Fuel Cell Technology Act of 2005, and tri-  
16 ennially thereafter, the Secretary shall submit to Congress  
17 a report describing—

18 “(1) any activity carried out by the Department  
19 of Energy under this Act, including a research, de-  
20 velopment, demonstration, and commercial applica-  
21 tion program for hydrogen and fuel cell technology;

22 “(2) measures the Secretary has taken during  
23 the preceding 3 years to support the transition of  
24 primary industry (or a related industry) to a fully  
25 commercialized hydrogen economy;

1           “(3) any change made to a research, develop-  
2           ment, or deployment strategy of the Secretary relat-  
3           ing to hydrogen and fuel cell technology to reflect  
4           the results of a learning demonstration under title  
5           II;

6           “(4) progress, including progress in infrastruc-  
7           ture, made toward achieving the goal of producing  
8           and deploying not less than—

9                   “(A) 100,000 hydrogen-fueled vehicles in  
10                  the United States by 2010; and

11                   “(B) 2,500,000 hydrogen-fueled vehicles by  
12                  2020;

13           “(5) progress made toward achieving the goal  
14           of supplying hydrogen at a sufficient number of fuel-  
15           ing stations in the United States by 2010 can be  
16           achieved by integrating—

17                   “(A) hydrogen activities; and

18                   “(B) associated targets and timetables for  
19                  the development of hydrogen technologies;

20           “(6) any problem relating to the design, execu-  
21           tion, or funding of a program under this Act;

22           “(7) progress made toward and goals achieved  
23           in carrying out this Act and updates to the develop-  
24           mental roadmap, including the results of the reviews  
25           conducted by the National Academy of Sciences

1 under subsection (b) for the fiscal years covered by  
2 the report; and

3 “(8) any updates to strategic plans that are  
4 necessary to meet the goals described in paragraph  
5 (4).

6 “(b) NATIONAL ACADEMY OF SCIENCES.—

7 “(1) IN GENERAL.—The Secretary shall enter  
8 into an arrangement with the National Academy of  
9 Sciences to conduct and submit to the Secretary, not  
10 later than September 30, 2007, and triennially  
11 thereafter—

12 “(A) the results of a review of the projects  
13 and activities carried out under this Act;

14 “(B) recommendations for any new au-  
15 thorities or resources needed to achieve stra-  
16 tegic goals; and

17 “(C) recommendations for approaches by  
18 which the Secretary could achieve a substantial  
19 decrease in the dependence on and consumption  
20 of natural gas and imported oil by the Federal  
21 Government, including by increasing the use of  
22 fuel cell vehicles, stationary and portable fuel  
23 cells, and hydrogen energy systems.

24 “(2) REAUTHORIZATION.—The Secretary shall  
25 use the results of reviews conducted under para-

graph (1) in proposing to Congress any legislative changes relating to reauthorization of this Act.

**“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

“There is authorized to be appropriated to carry out this title \$1,500,000 for each of fiscal years 2006 through 2010.

**“TITLE V—TERMINATION OF  
AUTHORITY**

**“SEC. 501. TERMINATION OF AUTHORITY.**

“This Act and the authority provided by this Act terminate on September 30, 2015.”.

**TITLE IX—RESEARCH AND  
DEVELOPMENT**

**SEC. 901. SHORT TITLE.**

This title may be cited as the “Energy Research, Development, Demonstration, and Commercial Application Act of 2005”.

**SEC. 902. GOALS.**

(a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application focused on—

(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies;

- 1           (2) promoting diversity of energy supply;
- 2           (3) decreasing the dependence of the United
- 3       States on foreign energy supplies;
- 4           (4) improving the energy security of the United
- 5       States; and
- 6           (5) decreasing the environmental impact of en-
- 7       ergy-related activities.

8       (b) GOALS.—The Secretary shall publish measurable  
9       cost and performance-based goals with each annual budget  
10      submission in at least the following areas:

- 11           (1) Energy efficiency for buildings, energy-con-
- 12      suming industries, and vehicles.
- 13           (2) Electric energy generation (including dis-
- 14      tributed generation), transmission, and storage.
- 15           (3) Renewable energy technologies, including
- 16      wind power, photovoltaics, solar thermal systems,
- 17      geothermal energy, hydrogen-fueled systems, bio-
- 18      mass-based systems, biofuels, and hydropower.
- 19           (4) Fossil energy, including power generation,
- 20      onshore and offshore oil and gas resource recovery,
- 21      and transportation.
- 22           (5) Nuclear energy, including programs for ex-
- 23      isting and advanced reactors, and education of fu-
- 24      ture specialists.



1 (c) PUBLIC COMMENT.—The Secretary shall provide  
2 mechanisms for input on the annually published goals  
3 from industry, institutions of higher education, and other  
4 public sources.

5 (d) EFFECT OF GOALS.—Nothing in subsection (a)  
6 or the annually published goals creates any new authority  
7 for any Federal agency, or may be used by any Federal  
8 agency, to support the establishment of regulatory stand-  
9 ards or regulatory requirements.

10 **SEC. 903. DEFINITIONS.**

11 In this title:

12 (1) DEPARTMENTAL MISSION.—The term “de-  
13 partmental mission” means any of the functions  
14 vested in the Secretary by the Department of En-  
15 ergy Organization Act (42 U.S.C. 7101 et seq.) or  
16 other law.

17 (2) HISPANIC-SERVING INSTITUTION.—The  
18 term “Hispanic-serving institution” has the meaning  
19 given the term in section 502(a) of the Higher Edu-  
20 cation Act of 1965 (20 U.S.C. 1101a(a)).

21 (3) NONMILITARY ENERGY LABORATORY.—The  
22 term “nonmilitary energy laboratory” means a Na-  
23 tional Laboratory other than a National Laboratory  
24 listed in subparagraph (G), (H), or (N) of section  
25 2(3).

1 (4) PART B INSTITUTION.—The term “part B  
2 institution” has the meaning given the term in sec-  
3 tion 322 of the Higher Education Act of 1965 (20  
4 U.S.C. 1061).

5 (5) SINGLE-PURPOSE RESEARCH FACILITY.—  
6 The term “single-purpose research facility” means—

7 (A) any of the primarily single-purpose en-  
8 tities owned by the Department; or

9 (B) any other organization of the Depart-  
10 ment designated by the Secretary.

## 11 **Subtitle A—Energy Efficiency**

### 12 **SEC. 911. ENERGY EFFICIENCY.**

13 (a) IN GENERAL.—There are authorized to be appro-  
14 priated to the Secretary to carry out energy efficiency and  
15 conservation research, development, demonstration, and  
16 commercial application activities, including activities au-  
17 thorized under this subtitle—

18 (1) \$772,000,000 for fiscal year 2006;

19 (2) \$865,000,000 for fiscal year 2007; and

20 (3) \$920,000,000 for fiscal year 2008.

21 (b) ALLOCATIONS.—From amounts authorized under  
22 subsection (a), the following sums are authorized:

23 (1) For activities under section 912,  
24 \$50,000,000 for each of fiscal years 2006 through  
25 2008.

1           (2) For activities under section 914,  
2       \$7,000,000 for each of fiscal years 2006 through  
3       2008.

4           (3) For activities under section 915—

5               (A) \$30,000,000 for fiscal year 2006;

6               (B) \$35,000,000 for fiscal year 2007; and

7               (C) \$40,000,000 for fiscal year 2008.

8       (c) EXTENDED AUTHORIZATION.—There are author-  
9       ized to be appropriated to the Secretary to carry out sec-  
10      tion 912 \$50,000,000 for each of fiscal years 2009  
11      through 2013.

12      (d) LIMITATIONS.—None of the funds authorized to  
13      be appropriated under this section may be used for—

14           (1) the issuance or implementation of energy ef-  
15      ficiency regulations;

16           (2) the weatherization program established  
17      under part A of title IV of the Energy Conservation  
18      and Production Act (42 U.S.C. 6861 et seq.);

19           (3) a State energy conservation plan established  
20      under part D of title III of the Energy Policy and  
21      Conservation Act (42 U.S.C. 6321 et seq.); or

22           (4) a Federal energy management measure car-  
23      ried out under part 3 of title V of the National En-  
24      ergy Conservation Policy Act (42 U.S.C. 8251 et  
25      seq.).

1 **SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.**

2 (a) DEFINITIONS.—In this section:

3 (1) ADVANCED SOLID-STATE LIGHTING.—The  
4 term “advanced solid-state lighting” means a  
5 semiconducting device package and delivery system  
6 that produces white light using externally applied  
7 voltage.

8 (2) INDUSTRY ALLIANCE.—The term “Industry  
9 Alliance” means an entity selected by the Secretary  
10 under subsection (d).

11 (3) INITIATIVE.—The term “Initiative” means  
12 the Next Generation Lighting Initiative carried out  
13 under this section.

14 (4) RESEARCH.—The term “research” includes  
15 research on the technologies, materials, and manu-  
16 facturing processes required for white light emitting  
17 diodes.

18 (5) WHITE LIGHT EMITTING DIODE.—The term  
19 “white light emitting diode” means a  
20 semiconducting package, using either organic or in-  
21 organic materials, that produces white light using  
22 externally applied voltage.

23 (b) INITIATIVE.—The Secretary shall carry out a  
24 Next Generation Lighting Initiative in accordance with  
25 this section to support research, development, demonstra-  
26 tion, and commercial application activities related to ad-

1 vanced solid-state lighting technologies based on white  
2 light emitting diodes.

3 (c) OBJECTIVES.—The objectives of the Initiative  
4 shall be to develop advanced solid-state organic and inor-  
5 ganic lighting technologies based on white light emitting  
6 diodes that, compared to incandescent and fluorescent  
7 lighting technologies, are longer lasting, are more energy-  
8 efficient and cost-competitive, and have less environmental  
9 impact.

10 (d) INDUSTRY ALLIANCE.—Not later than 90 days  
11 after the date of enactment of this Act, the Secretary shall  
12 competitively select an Industry Alliance to represent par-  
13 ticipants who are private, for-profit firms that, as a group,  
14 are broadly representative of United States solid state  
15 lighting research, development, infrastructure, and manu-  
16 facturing expertise as a whole.

17 (e) RESEARCH.—

18 (1) GRANTS.—The Secretary shall carry out the  
19 research activities of the Initiative through competi-  
20 tively awarded grants to—

21 (A) researchers, including Industry Alli-  
22 ance participants;

23 (B) National Laboratories; and

24 (C) institutions of higher education.

1           (2) INDUSTRY ALLIANCE.—The Secretary shall  
2           annually solicit from the Industry Alliance—

3                   (A) comments to identify solid-state light-  
4           ing technology needs;

5                   (B) an assessment of the progress of the  
6           research activities of the Initiative; and

7                   (C) assistance in annually updating solid-  
8           state lighting technology roadmaps.

9           (3) AVAILABILITY TO PUBLIC.—The informa-  
10          tion and roadmaps under paragraph (2) shall be  
11          available to the public.

12          (f) DEVELOPMENT, DEMONSTRATION, AND COMMER-  
13          CIAL APPLICATION.—

14                (1) IN GENERAL.—The Secretary shall carry  
15          out a development, demonstration, and commercial  
16          application program for the Initiative through com-  
17          petitively selected awards.

18                (2) PREFERENCE.—In making the awards, the  
19          Secretary may give preference to participants in the  
20          Industry Alliance.

21          (g) COST SHARING.—In carrying out this section, the  
22          Secretary shall require cost sharing in accordance with  
23          section 1002.

24          (h) INTELLECTUAL PROPERTY.—The Secretary may  
25          require (in accordance with section 202(a)(ii) of title 35,

1 United States Code, section 152 of the Atomic Energy Act  
2 of 1954 (42 U.S.C. 2182), and section 9 of the Federal  
3 Nonnuclear Energy Research and Development Act of  
4 1974 (42 U.S.C. 5908)) that for any new invention devel-  
5 oped under subsection (e)—

6 (1) that the Industry Alliance participants who  
7 are active participants in research, development, and  
8 demonstration activities related to the advanced  
9 solid-state lighting technologies that are covered by  
10 this section shall be granted the first option to nego-  
11 tiate with the invention owner, at least in the field  
12 of solid-state lighting, nonexclusive licenses and roy-  
13 alties on terms that are reasonable under the cir-  
14 cumstances;

15 (2)(i) that, for 1 year after a United States  
16 patent is issued for the invention, the patent holder  
17 shall not negotiate any license or royalty with any  
18 entity that is not a participant in the Industry Alli-  
19 ance described in paragraph (1); and

20 (ii) that, during the year described in clause (i),  
21 the patent holder shall negotiate nonexclusive li-  
22 censes and royalties in good faith with any inter-  
23 ested participant in the Industry Alliance described  
24 in paragraph (1); and

1           (3) such other terms as the Secretary deter-  
2       mines are required to promote accelerated commer-  
3       cialization of inventions made under the Initiative.

4       (i) NATIONAL ACADEMY REVIEW.—The Secretary  
5       shall enter into an arrangement with the National Acad-  
6       emy of Sciences to conduct periodic reviews of the Initia-  
7       tive.

8       **SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.**

9       (a) INTERAGENCY GROUP.—

10           (1) IN GENERAL.—Not later than 90 days after  
11       the date of enactment of this Act, the Director of  
12       the Office of Science and Technology Policy shall es-  
13       tablish an interagency group to develop, in coordina-  
14       tion with the advisory committee established under  
15       subsection (e), a National Building Performance Ini-  
16       tiative (referred to in this section as the “Initia-  
17       tive”).

18           (2) COCHAIRS.—The interagency group shall be  
19       co-chaired by appropriate officials of the Depart-  
20       ment and the Department of Commerce, who shall  
21       jointly arrange for the provision of necessary admin-  
22       istrative support to the group.

23       (b) INTEGRATION OF EFFORTS.—The Initiative shall  
24       integrate Federal, State, and voluntary private sector ef-  
25       forts to reduce the costs of construction, operation, main-



1 tenance, and renovation of commercial, industrial, institu-  
2 tional, and residential buildings.

3 (c) PLAN.—

4 (1) IN GENERAL.—Not later than 1 year after  
5 the date of enactment of this Act, the interagency  
6 group shall submit to Congress a plan for carrying  
7 out the appropriate Federal role in the Initiative.

8 (2) INCLUSIONS.—The plan shall include—

9 (A) research, development, demonstration,  
10 and commercial application of systems and ma-  
11 terials for new construction and retrofit relating  
12 to the building envelope and building system  
13 components;

14 (B) research, development, demonstration,  
15 and commercial application to develop tech-  
16 nology and infrastructure enabling the energy  
17 efficient, automated operation of buildings and  
18 building equipment; and

19 (C) the collection, analysis, and dissemina-  
20 tion of research results and other pertinent in-  
21 formation on enhancing building performance to  
22 industry, government entities, and the public.

23 (d) DEPARTMENT OF ENERGY ROLE.—Within the  
24 Federal portion of the Initiative, the Department shall be

1 the lead agency for all aspects of building performance re-  
 2 lated to use and conservation of energy.

3 (e) ADVISORY COMMITTEE.—The Director of the Of-  
 4 fice of Science and Technology Policy shall establish an  
 5 advisory committee to—

6 (1) analyze and provide recommendations on  
 7 potential private sector roles and participation in the  
 8 Initiative; and

9 (2) review and provide recommendations on the  
 10 plan described in subsection (c).

11 (f) ADMINISTRATION.—Nothing in this section pro-  
 12 vides any Federal agency with new authority to regulate  
 13 building performance.

14 **SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE**  
 15 **PROGRAM.**

16 (a) DEFINITIONS.—In this section:

17 (1) BATTERY.—The term “battery” means an  
 18 energy storage device that previously has been used  
 19 to provide motive power in a vehicle powered in  
 20 whole or in part by electricity.

21 (2) ASSOCIATED EQUIPMENT.—The term “asso-  
 22 ciated equipment” means equipment located where  
 23 the batteries will be used that is necessary to enable  
 24 the use of the energy stored in the batteries.

25 (b) PROGRAM.—

1           (1) IN GENERAL.—The Secretary shall establish  
2           and conduct a research, development, demonstration,  
3           and commercial application program for the sec-  
4           ondary use of batteries.

5           (2) ADMINISTRATION.—The program shall be—

6                 (A) designed to demonstrate the use of  
7                 batteries in secondary applications, including  
8                 utility and commercial power storage and power  
9                 quality;

10                (B) structured to evaluate the perform-  
11                ance, including useful service life and costs, of  
12                such batteries in field operations, and the nec-  
13                essary supporting infrastructure, including  
14                reuse and disposal of batteries; and

15                (C) coordinated with ongoing secondary  
16                battery use programs at the National Labora-  
17                tories and in industry.

18           (c) SOLICITATION.—

19                (1) IN GENERAL.—Not later than 180 days  
20                after the date of enactment of this Act, the Sec-  
21                retary shall solicit proposals to demonstrate the sec-  
22                ondary use of batteries and associated equipment  
23                and supporting infrastructure in geographic loca-  
24                tions throughout the United States.

1           (2) ADDITIONAL SOLICITATIONS.—The Sec-  
2       retary may make additional solicitations for pro-  
3       posals if the Secretary determines that the solicita-  
4       tions are necessary to carry out this section.

5       (d) SELECTION OF PROPOSALS.—

6           (1) IN GENERAL.—Not later than 90 days after  
7       the closing date established by the Secretary for re-  
8       ceipt of proposals under subsection (c), the Sec-  
9       retary shall select up to 5 proposals that may receive  
10      financial assistance under this section once the De-  
11      partment receives appropriated funds to carry out  
12      this section.

13          (2) FACTORS.—In selecting proposals, the Sec-  
14      retary shall consider—

15              (A) the diversity of battery type;

16              (B) geographic and climatic diversity; and

17              (C) life-cycle environmental effects of the  
18      approaches.

19          (3) LIMITATION.—No 1 project selected under  
20      this section shall receive more than 25 percent of the  
21      funds made available to carry out the program  
22      under this section.

23          (4) NONFEDERAL INVOLVEMENT.—In selecting  
24      proposals, the Secretary shall consider the extent of  
25      involvement of State or local government and other

1 persons in each demonstration project to optimize  
2 use of Federal resources.

3 (5) OTHER CRITERIA.—In selecting proposals,  
4 the Secretary may consider such other criteria as the  
5 Secretary considers appropriate.

6 (e) CONDITIONS.—In carrying out this section, the  
7 Secretary shall require that—

8 (1) relevant information be provided to—

9 (A) the Department;

10 (B) the users of the batteries;

11 (C) the proposers of a project under this  
12 section; and

13 (D) the battery manufacturers; and

14 (2) the costs of carrying out projects and activi-  
15 ties under this section are shared in accordance with  
16 section 1002.

17 **SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.**

18 (a) ESTABLISHMENT.—The Secretary shall establish  
19 an Energy Efficiency Science Initiative to be managed by  
20 the Assistant Secretary in the Department with responsi-  
21 bility for energy conservation under section 203(a)(9) of  
22 the Department of Energy Organization Act (42 U.S.C.  
23 7133(a)(9)), in consultation with the Director of the Of-  
24 fice of Science, for grants to be competitively awarded and

1 subject to peer review for research relating to energy effi-  
 2 ciency.

3 (b) REPORT.—The Secretary shall submit to Con-  
 4 gress, along with the annual budget request of the Presi-  
 5 dent submitted to Congress, a report on the activities of  
 6 the Energy Efficiency Science Initiative, including a de-  
 7 scription of the process used to award the funds and an  
 8 explanation of how the research relates to energy effi-  
 9 ciency.

## 10 **Subtitle B—Distributed Energy and** 11 **Electric Energy Systems**

### 12 **SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY** 13 **SYSTEMS.**

14 (a) IN GENERAL.—

15 (1) DISTRIBUTED ENERGY AND ELECTRIC EN-  
 16 ERGY SYSTEMS ACTIVITIES.—There are authorized  
 17 to be appropriated to the Secretary to carry out dis-  
 18 tributed energy and electric energy systems activi-  
 19 ties, including activities authorized under this sub-  
 20 title—

21 (A) \$220,000,000 for fiscal year 2006;

22 (B) \$240,000,000 for fiscal year 2007; and

23 (C) \$260,000,000 for fiscal year 2008.

24 (2) POWER DELIVERY RESEARCH INITIATIVE.—

25 There are authorized to be appropriated to the Sec-

1       retary to carry out the Policy Delivery Research Ini-  
2       tiative under subsection 925(e)—

3                   (A) \$30,000,000 for fiscal year 2006;

4                   (B) \$35,000,000 for fiscal year 2007; and

5                   (C) \$40,000,000 for fiscal year 2008.

6       (b)    MICRO-COGENERATION   ENERGY   TECH-  
7   NOLOGY.—From amounts authorized under subsection  
8   (a), \$20,000,000 for each of fiscal years 2006 and 2007  
9   shall be available to carry out activities under section 924.

10   **SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.**

11       (a) IN GENERAL.—The Secretary shall establish a  
12   comprehensive research, development, demonstration, and  
13   commercial application program to improve the energy ef-  
14   ficiency of high power density facilities, including data  
15   centers, server farms, and telecommunications facilities.

16       (b) TECHNOLOGIES.—The program shall consider  
17   technologies that provide significant improvement in ther-  
18   mal controls, metering, load management, peak load re-  
19   duction, or the efficient cooling of electronics.

20   **SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGY.**

21       (a) IN GENERAL.—The Secretary shall make com-  
22   petitive, merit-based grants to consortia for the develop-  
23   ment of micro-cogeneration energy technology.

24       (b) USES.—The consortia shall explore—

- 1           (1) the use of small-scale combined heat and
- 2           power in residential heating appliances;
- 3           (2) the use of excess power to operate other ap-
- 4           pliances within the residence; and
- 5           (3) the supply of excess generated power to the
- 6           power grid.

7   **SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEM-**  
8                   **ONSTRATION PROGRAM.**

9           The Secretary may provide financial assistance to co-  
10          ordinating consortia of interdisciplinary participants for  
11          demonstrations designed to accelerate the use of distrib-  
12          uted energy technologies (such as fuel cells, microturbines,  
13          reciprocating engines, thermally activated technologies,  
14          and combined heat and power systems) in highly energy  
15          intensive commercial applications.

16   **SEC. 925. ELECTRIC TRANSMISSION AND DISTRIBUTION**  
17                   **PROGRAMS.**

18          (a) DEMONSTRATION PROGRAM.—The Secretary  
19          shall establish a comprehensive research, development,  
20          and demonstration program to ensure the reliability, effi-  
21          ciency, and environmental integrity of electrical trans-  
22          mission and distribution systems, which shall include—

- 23               (1) advanced energy and energy storage tech-
- 24               nologies, materials, and systems, giving priority to
- 25               new transmission technologies, including composite



- 1 conductor materials and other technologies that en-  
2 hance reliability, operational flexibility, or power-car-  
3 rying capability;
- 4 (2) advanced grid reliability and efficiency tech-  
5 nology development;
- 6 (3) technologies contributing to significant load  
7 reductions;
- 8 (4) advanced metering, load management, and  
9 control technologies;
- 10 (5) technologies to enhance existing grid compo-  
11 nents;
- 12 (6) the development and use of high-tempera-  
13 ture superconductors to—
  - 14 (A) enhance the reliability, operational  
15 flexibility, or power-carrying capability of elec-  
16 tric transmission or distribution systems; or
  - 17 (B) increase the efficiency of electric en-  
18 ergy generation, transmission, distribution, or  
19 storage systems;
- 20 (7) integration of power systems, including sys-  
21 tems to deliver high-quality electric power, electric  
22 power reliability, and combined heat and power;
- 23 (8) supply of electricity to the power grid by  
24 small scale, distributed and residential-based power  
25 generators;

1           (9) the development and use of advanced grid  
2 design, operation, and planning tools;

3           (10) any other infrastructure technologies, as  
4 appropriate; and

5           (11) technology transfer and education.

6       (b) PROGRAM PLAN.—

7           (1) IN GENERAL.—Not later than 1 year after  
8 the date of enactment of this Act, the Secretary, in  
9 consultation with other appropriate Federal agen-  
10 cies, shall prepare and submit to Congress a 5-year  
11 program plan to guide activities under this section.

12          (2) CONSULTATION.—In preparing the program  
13 plan, the Secretary shall consult with—

14               (A) utilities;

15               (B) energy service providers;

16               (C) manufacturers;

17               (D) institutions of higher education;

18               (E) other appropriate State and local  
19 agencies;

20               (F) environmental organizations;

21               (G) professional and technical societies;

22           and

23               (H) any other persons the Secretary con-  
24 sider appropriate.

1       (c) IMPLEMENTATION.—The Secretary shall consider  
2     implementing the program under this section using a con-  
3     sortium of participants from industry, institutions of high-  
4     er education, and National Laboratories.

5       (d) REPORT.—Not later than 2 years after the sub-  
6     mission of the plan under subsection (b), the Secretary  
7     shall submit to Congress a report—

8             (1) describing the progress made under this  
9     section; and

10            (2) identifying any additional resources needed  
11     to continue the development and commercial applica-  
12     tion of transmission and distribution of infrastruc-  
13     ture technologies.

14       (e) POWER DELIVERY RESEARCH INITIATIVE.—

15             (1) IN GENERAL.—The Secretary shall establish  
16     a research, development, and demonstration initia-  
17     tive specifically focused on power delivery using com-  
18     ponents incorporating high temperature super-  
19     conductivity.

20             (2) GOALS.—The goals of the Initiative shall  
21     be—

22                 (A) to establish world-class facilities to de-  
23     velop high temperature superconductivity power  
24     applications in partnership with manufacturers  
25     and utilities;

1 (B) to provide technical leadership for es-  
2 tablishing reliability for high temperature  
3 superconductivity power applications, including  
4 suitable modeling and analysis;

5 (C) to facilitate the commercial transition  
6 toward direct current power transmission, stor-  
7 age, and use for high power systems using high  
8 temperature superconductivity; and

9 (D) to facilitate the integration of very low  
10 impedance high temperature superconducting  
11 wires and cables in existing electric networks to  
12 improve system performance, power flow con-  
13 trol, and reliability.

14 (3) INCLUSIONS.—The Initiative shall include—

15 (A) feasibility analysis, planning, research,  
16 and design to construct demonstrations of  
17 superconducting links in high power, direct cur-  
18 rent, and controllable alternating current trans-  
19 mission systems;

20 (B) public-private partnerships to dem-  
21 onstrate deployment of high temperature super-  
22 conducting cable into testbeds simulating a re-  
23 alistic transmission grid and under varying  
24 transmission conditions, including actual grid  
25 insertions; and

1 (C) testbeds developed in cooperation with  
2 National Laboratories, industries, and institu-  
3 tions of higher education to—

4 (i) demonstrate those technologies;

5 (ii) prepare the technologies for com-  
6 mercial introduction; and

7 (iii) address cost or performance road-  
8 blocks to successful commercial use.

9 (f) TRANSMISSION AND DISTRIBUTION GRID PLAN-  
10 NING AND OPERATIONS INITIATIVE.—

11 (1) IN GENERAL.—The Secretary shall establish  
12 a research, development, and demonstration initia-  
13 tive specifically focused on tools needed to plan, op-  
14 erate, and expand the transmission and distribution  
15 grids in the presence of competitive market mecha-  
16 nisms for energy, load demand, customer response,  
17 and ancillary services.

18 (2) GOALS.—The goals of the Initiative shall  
19 be—

20 (A)(i) to develop and use a geographically  
21 distributed center, consisting of institutions of  
22 higher education, and National Laboratories,  
23 with expertise and facilities to develop the un-  
24 derlying theory and software for power system  
25 application; and

1 (ii) to ensure commercial development in  
2 partnership with software vendors and utilities;

3 (B) to provide technical leadership in engi-  
4 neering and economic analysis for the reliability  
5 and efficiency of power systems planning and  
6 operations in the presence of competitive mar-  
7 kets for electricity;

8 (C) to model, simulate, and experiment  
9 with new market mechanisms and operating  
10 practices to understand and optimize those new  
11 methods before actual use; and

12 (D) to provide technical support and tech-  
13 nology transfer to electric utilities and other  
14 participants in the domestic electric industry  
15 and marketplace.

## 16 **Subtitle C—Renewable Energy**

### 17 **SEC. 931. RENEWABLE ENERGY.**

18 (a) IN GENERAL.—There are authorized to be appro-  
19 priated to the Secretary to carry out renewable energy re-  
20 search, development, demonstration, and commercial ap-  
21 plication activities, including activities authorized under  
22 this subtitle—

23 (1) \$610,000,000 for fiscal year 2006;

24 (2) \$659,000,000 for fiscal year 2007; and

25 (3) \$710,000,000 for fiscal year 2008.

1 (b) BIOENERGY.—From the amounts authorized  
2 under subsection (a), there are authorized to be appro-  
3 priated to carry out section 932—

4 (1) \$167,650,000 for fiscal year 2006;

5 (2) \$180,000,000 for fiscal year 2007; and

6 (3) \$192,000,000 for fiscal year 2008.

7 (c) CONCENTRATING SOLAR POWER.—From  
8 amounts authorized under subsection (a), there is author-  
9 ized to be appropriated to carry out section 933  
10 \$50,000,000 for each of fiscal years 2006 through 2008.

11 (d) ADMINISTRATION.—Of the funds authorized  
12 under subsection (b), not less than \$5,000,000 for each  
13 fiscal year shall be made available for grants to—

14 (1) part B institutions;

15 (2) Tribal Colleges or Universities (as defined  
16 in section 316(b) of the Higher Education Act of  
17 1965 (20 U.S.C. 1059c(b))); and

18 (3) Hispanic-serving institutions.

19 (e) CONSULTATION.—In carrying out this section, the  
20 Secretary, in consultation with the Secretary of Agri-  
21 culture, shall demonstrate the use of—

22 (1) advanced wind power technology, including  
23 combined use with coal gasification;

24 (2) biomass;

25 (3) geothermal energy systems; and

1           (4) other renewable energy technologies to as-  
2           sist in delivering electricity to rural and remote loca-  
3           tions.

4   **SEC. 932. BIOENERGY PROGRAM.**

5           (a) DEFINITION OF CELLULOSIC FEEDSTOCK.—In  
6           this section, the term “cellulosic feedstock” means any  
7           portion of a crop not normally used in food production  
8           or any nonfood crop grown for the purpose of producing  
9           biomass feedstock.

10          (b) PROGRAM.—The Secretary shall conduct a pro-  
11          gram of research, development, demonstration, and com-  
12          mercial application for bioenergy, including—

13               (1) biopower energy systems;

14               (2) biofuels;

15               (3) bioproducts;

16               (4) integrated biorefineries that may produce  
17          biopower, biofuels, and bioproducts;

18               (5) cross-cutting research and development in  
19          feedstocks; and

20               (6) economic analysis.

21          (c) BIOFUELS AND BIOPRODUCTS.—The goals of the  
22          biofuels and bioproducts programs shall be to develop, in  
23          partnership with industry and institutions of higher edu-  
24          cation—



1           (1) advanced biochemical and thermochemical  
2           conversion technologies capable of making fuels from  
3           cellulosic feedstocks that are price-competitive with  
4           gasoline or diesel in either internal combustion en-  
5           gines or fuel cell-powered vehicles;

6           (2) advanced biotechnology processes capable of  
7           making biofuels and bioproducts with emphasis on  
8           development of biorefinery technologies using en-  
9           zyme-based processing systems;

10          (3) advanced biotechnology processes capable of  
11          increasing energy production from cellulosic feed-  
12          stocks, with emphasis on reducing the dependence of  
13          industry on fossil fuels in manufacturing facilities;  
14          and

15          (4) other advanced processes that will enable  
16          the development of cost-effective bioproducts, includ-  
17          ing biofuels.

18          (d) REPEAL OF SUNSET PROVISION.—Section 311 of  
19          the Biomass Research and Development Act of 2000 (7  
20          U.S.C. 8101 note) is repealed.

21      **SEC. 933. CONCENTRATING SOLAR POWER RESEARCH PRO-**  
22                                      **GRAM.**

23          (a) IN GENERAL.—The Secretary shall conduct a  
24          program of research and development to evaluate the po-  
25          tential for concentrating solar power for hydrogen produc-

1 tion, including cogeneration approaches for both hydrogen  
2 and electricity.

3 (b) ADMINISTRATION.—The program shall take ad-  
4 vantage of existing facilities to the extent practicable and  
5 shall include—

6 (1) development of optimized technologies that  
7 are common to both electricity and hydrogen produc-  
8 tion;

9 (2) evaluation of thermochemical cycles for hy-  
10 drogen production at the temperatures attainable  
11 with concentrating solar power;

12 (3) evaluation of materials issues for the  
13 thermochemical cycles described in paragraph (2);

14 (4) cogeneration of solar thermal electric power  
15 and photo-synthetic-based hydrogen production;

16 (5) system architectures and economics studies;  
17 and

18 (6) coordination with activities under the Ad-  
19 vanced Reactor Hydrogen Co-generation Project es-  
20 tablished under subtitle C of title VI on high tem-  
21 perature materials, thermochemical cycles, and eco-  
22 nomic issues.

23 (c) ASSESSMENT.—In carrying out the program  
24 under this section, the Secretary shall—

1           (1) assess conflicting guidance on the economic  
2           potential of concentrating solar power for electricity  
3           production received from the National Research  
4           Council in the report entitled “Renewable Power  
5           Pathways: A Review of the U.S. Department of En-  
6           ergy’s Renewable Energy Programs” and dated  
7           2000 and subsequent reviews of that report funded  
8           by the Department; and

9           (2) provide an assessment of the potential im-  
10          pact of technology used to concentrate solar power  
11          for electricity before, or concurrent with, submission  
12          of the budget for fiscal year 2007.

13          (d) REPORT.—Not later than 5 years after the date  
14          of enactment of this Act, the Secretary shall provide to  
15          Congress a report on the economic and technical potential  
16          for electricity or hydrogen production, with or without co-  
17          generation, with concentrating solar power, including the  
18          economic and technical feasibility of potential construction  
19          of a pilot demonstration facility suitable for commercial  
20          production of electricity or hydrogen from concentrating  
21          solar power.

22       **SEC. 934. HYBRID SOLAR LIGHTING RESEARCH AND DEVEL-**  
23       **OPMENT PROGRAM.**

24          (a) DEFINITION OF HYBRID SOLAR LIGHTING.—In  
25          this section, the term “hybrid solar lighting” means a

1 novel lighting system that integrates sunlight and elec-  
2 trical lighting in complement to each other in common  
3 lighting fixtures for the purpose of improving energy effi-  
4 ciency.

5 (b) PROGRAM.—The Secretary shall conduct a pro-  
6 gram of research, development, demonstration, and com-  
7 mercial application for hybrid solar lighting aimed at de-  
8 veloping hybrid solar lighting systems that are—

9 (1) designed to eliminate large roof penetra-  
10 tions and associated architectural design and main-  
11 tenance problems that limit the conventional use of  
12 daylight in most buildings;

13 (2) easily integrated with electric lights; and

14 (3) compatible with a majority of electric lamps  
15 and light fixtures.

16 (c) LIMITATIONS.—Funding authorized under this  
17 section shall not be used for lighting systems based on  
18 conventional daylighting installations such as skylights,  
19 light wells, light shelves, or roof monitors.

20 (d) NATIONAL ACADEMY OF SCIENCES.—Not later  
21 than 2 years after the date of enactment of this Act, the  
22 Secretary shall enter into an arrangement with the Na-  
23 tional Academy of Sciences to conduct a biannual review  
24 of the activities under this section including program pri-

1 orities, technical milestones, and opportunities for tech-  
 2 nology transfer and commercialization.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
 4 are authorized to be appropriated to carry out this sec-  
 5 tion—

6 (1) \$4,000,000 for fiscal year 2006;

7 (2) \$6,000,000 for fiscal year 2007; and

8 (3) \$6,000,000 for fiscal year 2008.

9 **SEC. 935. MISCELLANEOUS PROJECTS.**

10 The Secretary shall conduct research, development,  
 11 demonstration, and commercial application programs  
 12 for—

13 (1) ocean energy, including wave energy;

14 (2) the combined use of renewable energy tech-  
 15 nologies with 1 another and with other energy tech-  
 16 nologies, including the combined use of wind power  
 17 and coal gasification technologies; and

18 (3) renewable energy technologies for cogenera-  
 19 tion of hydrogen and electricity.

20 **Subtitle D—Nuclear Energy**

21 **SEC. 941. NUCLEAR ENERGY.**

22 (a) CORE PROGRAMS.—There are authorized to be  
 23 appropriated to the Secretary to carry out nuclear energy  
 24 research, development, demonstration, and commercial ap-  
 25 plication activities, including activities authorized under

1 this subtitle, other than those described in subsection

2 (b)—

3 (1) \$330,000,000 for fiscal year 2006;

4 (2) \$355,000,000 for fiscal year 2007; and

5 (3) \$495,000,000 for fiscal year 2008.

6 (b) NUCLEAR INFRASTRUCTURE SUPPORT.—There

7 are authorized to be appropriated to the Secretary to carry

8 out activities under section 942(f):

9 (1) \$135,000,000 for fiscal year 2006;

10 (2) \$140,000,000 for fiscal year 2007; and

11 (3) \$145,000,000 for fiscal year 2008.

12 (c) ALLOCATIONS.—From amounts authorized under

13 subsection (a), the following sums are authorized:

14 (1) For activities under section 943—

15 (A) \$150,000,000 for fiscal year 2006;

16 (B) \$155,000,000 for fiscal year 2007; and

17 (C) \$275,000,000 for fiscal year 2008.

18 (2) For activities under section 944—

19 (A) \$43,600,000 for fiscal year 2006;

20 (B) \$50,100,000 for fiscal year 2007; and

21 (C) \$56,000,000 for fiscal year 2008.

22 (3) For activities under section 946,

23 \$6,000,000 for each of fiscal years 2006 through

24 2008.

1 (d) LIMITATION.—None of the funds authorized  
2 under this section may be used to decommission the Fast  
3 Flux Test Facility.

4 **SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.**

5 (a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The  
6 Secretary shall carry out a Nuclear Energy Research Ini-  
7 tiative for research and development related to nuclear en-  
8 ergy.

9 (b) NUCLEAR ENERGY PLANT OPTIMIZATION PRO-  
10 GRAM.—The Secretary shall carry out a Nuclear Energy  
11 Plant Optimization Program to support research and de-  
12 velopment activities addressing reliability, availability, pro-  
13 ductivity, component aging, safety, and security of existing  
14 nuclear power plants.

15 (c) NUCLEAR POWER 2010 PROGRAM.—

16 (1) IN GENERAL.—The Secretary shall carry  
17 out a Nuclear Power 2010 Program, consistent with  
18 recommendations of the Nuclear Energy Research  
19 Advisory Committee of the Department in the report  
20 entitled “A Roadmap to Deploy New Nuclear Power  
21 Plants in the United States by 2010” and dated Oc-  
22 tober 2001.

23 (2) ADMINISTRATION.—The Program shall in-  
24 clude—

1 (A) use of the expertise and capabilities of  
2 industry, institutions of higher education, and  
3 National Laboratories in evaluation of advanced  
4 nuclear fuel cycles and fuels testing;

5 (B) consideration of a variety of reactor  
6 designs suitable for both developed and devel-  
7 oping nations;

8 (C) participation of international collabo-  
9 rators in research, development, and design ef-  
10 forts, as appropriate; and

11 (D) encouragement for participation by in-  
12 stitutions of higher education and industry.

13 (d) GENERATION IV NUCLEAR ENERGY SYSTEMS  
14 INITIATIVE.—

15 (1) IN GENERAL.—The Secretary shall carry  
16 out a Generation IV Nuclear Energy Systems Initia-  
17 tive to develop an overall technology plan for and to  
18 support research and development necessary to make  
19 an informed technical decision about the most prom-  
20 ising candidates for eventual commercial application.

21 (2) ADMINISTRATION.—In conducting the Ini-  
22 tiative, the Secretary shall examine advanced pro-  
23 liferation-resistant and passively safe reactor de-  
24 signs, including designs that—



1           (A) are economically competitive with other  
2           electric power generation plants;

3           (B) have higher efficiency, lower cost, and  
4           improved safety compared to reactors in oper-  
5           ation on the date of enactment of this Act;

6           (C) use fuels that are proliferation resist-  
7           ant and have substantially reduced production  
8           of high-level waste per unit of output; and

9           (D) use improved instrumentation.

10       (e) REACTOR PRODUCTION OF HYDROGEN.—The  
11       Secretary shall carry out research to examine designs for  
12       high-temperature reactors capable of producing large-scale  
13       quantities of hydrogen using thermochemical processes.

14       (f) NUCLEAR INFRASTRUCTURE SUPPORT.—

15           (1) IN GENERAL.—The Secretary shall—

16           (A) develop and implement a strategy for  
17           the facilities of the Office of Nuclear Energy,  
18           Science, and Technology; and

19           (B) submit to Congress a report describing  
20           the strategy, along with the budget request of  
21           the President submitted to Congress for fiscal  
22           year 2006.

23           (2) ADMINISTRATION.—The strategy shall pro-  
24       vide a cost-effective means for—

- 1 (A) maintaining existing facilities and in-
- 2 frastructure;
- 3 (B) closing unneeded facilities;
- 4 (C) making facility upgrades and modifica-
- 5 tions; and
- 6 (D) building new facilities.

7 **SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.**

8 (a) IN GENERAL.—The Secretary, acting through the  
9 Director of the Office of Nuclear Energy, Science and  
10 Technology, shall conduct an advanced fuel recycling tech-  
11 nology research and development program (referred to in  
12 this section as the “program”) to evaluate proliferation-  
13 resistant fuel recycling and transmutation technologies  
14 that minimize environmental or public health and safety  
15 impacts as an alternative to aqueous reprocessing tech-  
16 nologies deployed as of the date of enactment of this Act  
17 in support of evaluation of alternative national strategies  
18 for spent nuclear fuel and the Generation IV advanced re-  
19 actor concepts.

20 (b) ANNUAL REVIEW.—The program shall be subject  
21 to annual review by the Nuclear Energy Research Advi-  
22 sory Committee of the Department or other independent  
23 entity, as appropriate.

24 (c) INTERNATIONAL COOPERATION.—In carrying out  
25 the program, the Secretary is encouraged to seek opportu-

1 nities to enhance the progress of the program through  
2 international cooperation.

3 (d) REPORTS.—The Secretary shall submit, as part  
4 of the annual budget submission of the Department, a re-  
5 port on the activities of the program.

6 **SEC. 944. NUCLEAR SCIENCE AND ENGINEERING SUPPORT**  
7 **FOR INSTITUTIONS OF HIGHER EDUCATION.**

8 (a) ESTABLISHMENT.—The Secretary shall support  
9 a program to invest in human resources and infrastructure  
10 in the nuclear sciences and engineering and related fields  
11 (including health physics and nuclear and radiochemistry),  
12 consistent with departmental missions related to civilian  
13 nuclear research and development.

14 (b) DUTIES.—

15 (1) IN GENERAL.—In carrying out the program  
16 under this section, the Secretary shall—

17 (A) establish fellowship and faculty assist-  
18 ance programs; and

19 (B) provide support for fundamental re-  
20 search and encourage collaborative research  
21 among industry, National Laboratories, and in-  
22 stitutions of higher education through the Nu-  
23 clear Energy Research Initiative established  
24 under section 942(a).

1           (2) ENTIRE FUEL CYCLE.—The Secretary is en-  
2           couraged to support activities addressing the entire  
3           fuel cycle through involvement of the Office of Nu-  
4           clear Energy, Science and Technology and the Office  
5           of Civilian Radioactive Waste Management.

6           (3) OUTREACH.—The Secretary shall support  
7           communication and outreach related to nuclear  
8           science, engineering, and nuclear waste manage-  
9           ment.

10          (c) MAINTAINING RESEARCH AND TRAINING REAC-  
11          TORS AND ASSOCIATED INFRASTRUCTURE IN INSTITU-  
12          TIONS OF HIGHER EDUCATION.—Activities under this sec-  
13          tion may include—

14               (1) converting research reactors currently using  
15               high-enrichment fuels to low-enrichment fuels;

16               (2) upgrading operational instrumentation;

17               (3) sharing of reactors among institutions of  
18               higher education;

19               (4) providing technical assistance, in collabora-  
20               tion with the United States nuclear industry, in reli-  
21               censing and upgrading training reactors as part of  
22               a student training program; and

23               (5) providing funding for reactor improvements  
24               as part of a focused effort that emphasizes research,  
25               training, and education.

1 (d) INTERACTIONS BETWEEN NATIONAL LABORA-  
2 TORIES AND INSTITUTIONS OF HIGHER EDUCATION.—  
3 The Secretary shall develop sabbatical fellowship and vis-  
4 iting scientist programs to encourage sharing of personnel  
5 between National Laboratories and institutions of higher  
6 education.

7 (e) OPERATING AND MAINTENANCE COSTS.—Fund-  
8 ing for a research project provided under this section may  
9 be used to offset a portion of the operating and mainte-  
10 nance costs of a research reactor at an institution of high-  
11 er education used in the research project.

12 **SEC. 945. SECURITY OF NUCLEAR FACILITIES.**

13 The Secretary, acting through the Director of the Of-  
14 fice of Nuclear Energy, Science and Technology, shall con-  
15 duct a research and development program on cost-effective  
16 technologies for increasing—

17 (1) the safety of nuclear facilities from natural  
18 phenomena; and

19 (2) the security of nuclear facilities from delib-  
20 erate attacks.

21 **SEC. 946. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE**  
22 **SOURCES.**

23 (a) SURVEY.—

24 (1) IN GENERAL.—Not later than August 1,  
25 2006, the Secretary shall submit to Congress the re-

1 sults of a survey of industrial applications of large  
2 radioactive sources.

3 (2) ADMINISTRATION.—The survey shall—

4 (A) consider well-logging sources as 1 class  
5 of industrial sources;

6 (B) include information on current domes-  
7 tic and international Department, Department  
8 of Defense, State Department, and commercial  
9 programs to manage and dispose of radioactive  
10 sources; and

11 (C) analyze available disposal options for  
12 currently deployed or future sources and, if de-  
13 ficiencies are noted for either deployed or future  
14 sources, recommend legislative options that  
15 Congress may consider to remedy identified de-  
16 ficiencies.

17 (b) PLAN.—

18 (1) IN GENERAL.—In conjunction with the sur-  
19 vey conducted under subsection (a), the Secretary  
20 shall establish a research and development program  
21 to develop alternatives to sources described in sub-  
22 section (a) that reduce safety, environmental, or pro-  
23 liferation risks to either workers using the sources or  
24 the public.

1           (2) ACCELERATORS.—Miniaturized particle ac-  
 2           celerators for well-logging or other industrial appli-  
 3           cations and portable accelerators for production of  
 4           short-lived radioactive materials at an industrial site  
 5           shall be considered as part of the research and de-  
 6           velopment efforts.

7           (3) REPORT.—Not later than August 1, 2006,  
 8           the Secretary shall submit to Congress a report de-  
 9           scribing the details of the program plan.

## 10           **Subtitle E—Fossil Energy**

### 11   **SEC. 951. FOSSIL ENERGY.**

12           (a) IN GENERAL.—There are authorized to be appro-  
 13           priated to the Secretary to carry out fossil energy re-  
 14           search, development, demonstration, and commercial ap-  
 15           plication activities, including activities authorized under  
 16           this subtitle—

17                   (1) \$583,000,000 for fiscal year 2006;

18                   (2) \$611,000,000 for fiscal year 2007; and

19                   (3) \$626,000,000 for fiscal year 2008.

20           (b) ALLOCATIONS.—From amounts authorized under  
 21           subsection (a), the following sums are authorized:

22                   (1) For activities under section 952(b)(2),  
 23           \$28,000,000 for each of fiscal years 2006 through  
 24           2008.

1           (2) For activities under section 954,  
2       \$20,000,000 for each of fiscal years 2006 through  
3       2008.

4           (3) For activities under section 955—

5               (A) \$285,000,000 for fiscal year 2006;

6               (B) \$298,000,000 for fiscal year 2007; and

7               (C) \$308,000,000 for fiscal year 2008.

8           (4) For the Office of Arctic Energy under sec-  
9       tion 3197 of the Floyd D. Spence National Defense  
10      Authorization Act for Fiscal Year 2001 (42 U.S.C.  
11      7144d) \$25,000,000 for each of fiscal years 2006  
12      through 2008.

13       (c) EXTENDED AUTHORIZATION.—There are author-  
14      ized to be appropriated to the Secretary for the Office of  
15      Arctic Energy established under section 3197 of the Floyd  
16      D. Spence National Defense Authorization Act for Fiscal  
17      Year 2001 (42 U.S.C. 7144d) \$25,000,000 for each of  
18      fiscal years 2009 through 2012.

19       (d) LIMITATIONS.—

20           (1) USES.—None of the funds authorized under  
21      this section may be used for Fossil Energy Environ-  
22      mental Restoration or Import/Export Authorization.

23           (2) INSTITUTIONS OF HIGHER EDUCATION.—Of  
24      the funds authorized under subsection (b)(2), not  
25      less than 20 percent of the funds appropriated for



1 each fiscal year shall be dedicated to research and  
2 development carried out at institutions of higher  
3 education.

4 **SEC. 952. OIL AND GAS RESEARCH PROGRAMS.**

5 (a) OIL AND GAS RESEARCH.—The Secretary shall  
6 conduct a program of research, development, demonstra-  
7 tion, and commercial application of oil and gas, includ-  
8 ing—

- 9 (1) exploration and production;
- 10 (2) gas hydrates;
- 11 (3) reservoir life and extension;
- 12 (4) transportation and distribution infrastruc-
- 13 ture;
- 14 (5) ultraclean fuels;
- 15 (6) heavy oil and shale; and
- 16 (7) related environmental research.

17 (b) FUEL CELLS.—

18 (1) IN GENERAL.—The Secretary shall conduct  
19 a program of research, development, demonstration,  
20 and commercial application on fuel cells for low-cost,  
21 high-efficiency, fuel-flexible, modular power systems.

22 (2) DEMONSTRATIONS.—The demonstrations  
23 shall include fuel cell proton exchange membrane  
24 technology for commercial, residential, and transpor-  
25 tation applications, and distributed generation sys-

1       tems, using improved manufacturing production and  
2       processes.

3       (c) NATURAL GAS AND OIL DEPOSITS REPORT.—

4       Not later than 2 years after the date of enactment of this  
5       Act and every 2 years thereafter, the Secretary of the Inte-  
6       rior, in consultation with other appropriate Federal agen-  
7       cies, shall submit to Congress a report on the latest esti-  
8       mates of natural gas and oil reserves, reserves growth, and  
9       undiscovered resources in Federal and State waters off the  
10      coast of Louisiana, Texas, Alabama, and Mississippi.

11      (d) INTEGRATED CLEAN POWER AND ENERGY RE-  
12      SEARCH.—

13           (1) ESTABLISHMENT OF CENTER.—The Sec-  
14      retary shall establish a national center or consortium  
15      of excellence in clean energy and power generation,  
16      using the resources of the Clean Power and Energy  
17      Research Consortium in existence on the date of en-  
18      actment of this Act, to address the critical depend-  
19      ence of the United States on energy and the need  
20      to reduce emissions.

21           (2) FOCUS AREAS.—The center or consortium  
22      shall conduct a program of research, development,  
23      demonstration, and commercial application on inte-  
24      grating the following 6 focus areas:

1 (A) Efficiency and reliability of gas tur-  
2 bines for power generation.

3 (B) Reduction in emissions from power  
4 generation.

5 (C) Promotion of energy conservation  
6 issues.

7 (D) Effectively using alternative fuels and  
8 renewable energy.

9 (E) Development of advanced materials  
10 technology for oil and gas exploration and use  
11 in harsh environments.

12 (F) Education on energy and power gen-  
13 eration issues.

14 **SEC. 953. METHANE HYDRATE RESEARCH.**

15 (a) IN GENERAL.—The Methane Hydrate Research  
16 and Development Act of 2000 (30 U.S.C. 1902 note; Pub-  
17 lic Law 106–193) is amended to read as follows:

18 **“SECTION 1. SHORT TITLE.**

19 “This Act may be cited as the ‘Methane Hydrate Re-  
20 search and Development Act of 2000’.

21 **“SEC. 2. FINDINGS.**

22 “Congress finds that—

23 “(1) in order to promote energy independence  
24 and meet the increasing demand for energy, the  
25 United States will require a diversified portfolio of

1 substantially increased quantities of electricity, nat-  
2 ural gas, and transportation fuels;

3 “(2) according to the report submitted to Con-  
4 gress by the National Research Council entitled  
5 ‘Charting the Future of Methane Hydrate Research  
6 in the United States’, the total United States re-  
7 sources of gas hydrates have been estimated to be on  
8 the order of 200,000 trillion cubic feet;

9 “(3) according to the report of the National  
10 Commission on Energy Policy entitled ‘Ending the  
11 Energy Stalemate—A Bipartisan Strategy to Meet  
12 America’s Energy Challenge’, and dated December  
13 2004, the United States may be endowed with over  
14 1/4 of the methane hydrate deposits in the world;

15 “(4) according to the Energy Information Ad-  
16 ministration, a shortfall in natural gas supply from  
17 conventional and unconventional sources is expected  
18 to occur in or about 2020; and

19 “(5) the National Academy of Science states  
20 that methane hydrate may have the potential to al-  
21 leviate the projected shortfall in the natural gas sup-  
22 ply.

23 **“SEC. 3. DEFINITIONS.**

24 “In this Act:

1           “(1) CONTRACT.—The term ‘contract’ means a  
2           procurement contract within the meaning of section  
3           6303 of title 31, United States Code.

4           “(2) COOPERATIVE AGREEMENT.—The term  
5           ‘cooperative agreement’ means a cooperative agree-  
6           ment within the meaning of section 6305 of title 31,  
7           United States Code.

8           “(3) DIRECTOR.—The term ‘Director’ means  
9           the Director of the National Science Foundation.

10          “(4) GRANT.—The term ‘grant’ means a grant  
11          awarded under a grant agreement (within the mean-  
12          ing of section 6304 of title 31, United States Code).

13          “(5) INDUSTRIAL ENTERPRISE.—The term ‘in-  
14          dustrial enterprise’ means a private, nongovern-  
15          mental enterprise that has an expertise or capability  
16          that relates to methane hydrate research and devel-  
17          opment.

18          “(6) INSTITUTION OF HIGHER EDUCATION.—  
19          The term ‘institution of higher education’ means an  
20          institution of higher education (as defined in section  
21          102 of the Higher Education Act of 1965 (20  
22          U.S.C. 1002)).

23          “(7) SECRETARY.—The term ‘Secretary’ means  
24          the Secretary of Energy, acting through the Assist-  
25          ant Secretary for Fossil Energy.

1           “(8) SECRETARY OF COMMERCE.—The term  
 2           ‘Secretary of Commerce’ means the Secretary of  
 3           Commerce, acting through the Administrator of the  
 4           National Oceanic and Atmospheric Administration.

5           “(9) SECRETARY OF DEFENSE.—The term  
 6           ‘Secretary of Defense’ means the Secretary of De-  
 7           fense, acting through the Secretary of the Navy.

8           “(10) SECRETARY OF THE INTERIOR.—The  
 9           term ‘Secretary of the Interior’ means the Secretary  
 10          of the Interior, acting through the Director of the  
 11          United States Geological Survey, the Director of the  
 12          Bureau of Land Management, and the Director of  
 13          the Minerals Management Service.

14   **“SEC. 4. METHANE HYDRATE RESEARCH AND DEVELOP-**  
 15           **MENT PROGRAM.**

16          “(a) IN GENERAL.—

17           “(1) COMMENCEMENT OF PROGRAM.—Not later  
 18          than 90 days after the date of enactment of the En-  
 19          ergy Research, Development, Demonstration, and  
 20          Commercial Application Act of 2005, the Secretary,  
 21          in consultation with the Secretary of Commerce, the  
 22          Secretary of Defense, the Secretary of the Interior,  
 23          and the Director, shall commence a program of  
 24          methane hydrate research and development in ac-  
 25          cordance with this section.

1           “(2) DESIGNATIONS.—The Secretary, the Sec-  
2       retary of Commerce, the Secretary of Defense, the  
3       Secretary of the Interior, and the Director shall des-  
4       ignate individuals to carry out this section.

5           “(3) COORDINATION.—The individual des-  
6       ignated by the Secretary shall coordinate all activi-  
7       ties within the Department of Energy relating to  
8       methane hydrate research and development.

9           “(4) MEETINGS.—The individuals designated  
10      under paragraph (2) shall meet not later than 180  
11      days after the date of enactment of the Energy Re-  
12      search, Development, Demonstration, and Commer-  
13      cial Application Act of 2005 and not less frequently  
14      than every 180 days thereafter to—

15           “(A) review the progress of the program  
16      under paragraph (1); and

17           “(B) coordinate interagency research and  
18      partnership efforts in carrying out the program.

19           “(b) GRANTS, CONTRACTS, COOPERATIVE AGREE-  
20      MENTS, INTERAGENCY FUNDS TRANSFER AGREEMENTS,  
21      AND FIELD WORK PROPOSALS.—

22           “(1) ASSISTANCE AND COORDINATION.—In car-  
23      rying out the program of methane hydrate research  
24      and development authorized by this section, the Sec-  
25      retary may award grants to, or enter into contracts

1 or cooperative agreements with, institutions of high-  
2 er education, oceanographic institutions, and indus-  
3 trial enterprises to—

4 “(A) conduct basic and applied research to  
5 identify, explore, assess, and develop methane  
6 hydrate as a commercially viable source of en-  
7 ergy;

8 “(B) identify methane hydrate resources  
9 through remote sensing;

10 “(C) acquire and reprocess seismic data  
11 suitable for characterizing methane hydrate ac-  
12 cumulations;

13 “(D) assist in developing technologies re-  
14 quired for efficient and environmentally sound  
15 development of methane hydrate resources;

16 “(E) promote education and training in  
17 methane hydrate resource research and re-  
18 source development through fellowships or other  
19 means for graduate education and training;

20 “(F) conduct basic and applied research to  
21 assess and mitigate the environmental impact of  
22 hydrate degassing (including both natural  
23 degassing and degassing associated with com-  
24 mercial development);



1           “(G) develop technologies to reduce the  
2 risks of drilling through methane hydrates; and

3           “(H) conduct exploratory drilling, well  
4 testing, and production testing operations on  
5 permafrost and non-permafrost gas hydrates in  
6 support of the activities authorized by this  
7 paragraph, including drilling of 1 or more full-  
8 scale production test wells.

9           “(2) COMPETITIVE PEER REVIEW.—Funds  
10 made available under paragraph (1) shall be made  
11 available based on a competitive process using exter-  
12 nal scientific peer review of proposed research.

13          “(c) METHANE HYDRATES ADVISORY PANEL.—

14           “(1) IN GENERAL.—The Secretary shall estab-  
15 lish an advisory panel (including the hiring of appro-  
16 priate staff) consisting of representatives of indus-  
17 trial enterprises, institutions of higher education,  
18 oceanographic institutions, State agencies, and envi-  
19 ronmental organizations with knowledge and exper-  
20 tise in the natural gas hydrates field, to—

21           “(A) assist in developing recommendations  
22 and broad programmatic priorities for the  
23 methane hydrate research and development pro-  
24 gram carried out under subsection (a)(1);

1           “(B) provide scientific oversight for the  
2 methane hydrates program, including assessing  
3 progress toward program goals, evaluating pro-  
4 gram balance, and providing recommendations  
5 to enhance the quality of the program over  
6 time; and

7           “(C) not later than 2 years after the date  
8 of enactment of the Energy Research, Develop-  
9 ment, Demonstration, and Commercial Applica-  
10 tion Act of 2005, and at such later dates as the  
11 panel considers advisable, submit to Congress—

12               “(i) an assessment of the methane hy-  
13 drate research program; and

14               “(ii) an assessment of the 5-year re-  
15 search plan of the Department of Energy.

16           “(2) CONFLICTS OF INTEREST.—In appointing  
17 each member of the advisory panel established under  
18 paragraph (1), the Secretary shall ensure, to the  
19 maximum extent practicable, that the appointment  
20 of the member does not pose a conflict of interest  
21 with respect to the duties of the member under this  
22 Act.

23           “(3) MEETINGS.—The advisory panel shall—

1                   “(A) hold the initial meeting of the advi-  
2                   sory panel not later than 180 days after the  
3                   date of establishment of the advisory panel; and

4                   “(B) meet biennially thereafter.

5                   “(4) COORDINATION.—The advisory panel shall  
6                   coordinate activities of the advisory panel with pro-  
7                   gram managers of the Department of Energy at ap-  
8                   propriate national laboratories

9                   “(d) CONSTRUCTION COSTS.—None of the funds  
10                  made available to carry out this section may be used for  
11                  the construction of a new building or the acquisition, ex-  
12                  pansion, remodeling, or alteration of an existing building  
13                  (including site grading and improvement and architect  
14                  fees).

15                  “(e) RESPONSIBILITIES OF THE SECRETARY.—In  
16                  carrying out subsection (b)(1), the Secretary shall—

17                   “(1) facilitate and develop partnerships among  
18                   government, industrial enterprises, and institutions  
19                   of higher education to research, identify, assess, and  
20                   explore methane hydrate resources;

21                   “(2) undertake programs to develop basic infor-  
22                   mation necessary for promoting long-term interest in  
23                   methane hydrate resources as an energy source;

1           “(3) ensure that the data and information de-  
2       veloped through the program are accessible and  
3       widely disseminated as needed and appropriate;

4           “(4) promote cooperation among agencies that  
5       are developing technologies that may hold promise  
6       for methane hydrate resource development;

7           “(5) report annually to Congress on the results  
8       of actions taken to carry out this Act; and

9           “(6) ensure, to the maximum extent prac-  
10      ticable, greater participation by the Department of  
11      Energy in international cooperative efforts.

12   **“SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.**

13       “(a) AGREEMENT FOR STUDY.—The Secretary shall  
14      offer to enter into an agreement with the National Re-  
15      search Council under which the National Research Council  
16      shall—

17           “(1) conduct a study of the progress made  
18       under the methane hydrate research and develop-  
19       ment program implemented under this Act; and

20           “(2) make recommendations for future methane  
21       hydrate research and development needs.

22       “(b) REPORT.—Not later than September 30, 2009,  
23      the Secretary shall submit to Congress a report containing  
24      the findings and recommendations of the National Re-  
25      search Council under this section.

1   **“SEC. 6. REPORTS AND STUDIES FOR CONGRESS.**

2           “The Secretary shall provide to the Committee on  
3 Science of the House of Representatives and the Com-  
4 mittee on Energy and Natural Resources of the Senate  
5 copies of any report or study that the Department of En-  
6 ergy prepares at the direction of any committee of Con-  
7 gress relating to the methane hydrate research and devel-  
8 opment program implemented under this Act.

9   **“SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

10          “There are authorized to be appropriated to the Sec-  
11 retary to carry out this Act, to remain available until ex-  
12 pended—

13           “(1) \$15,000,000 for fiscal year 2006;

14           “(2) \$20,000,000 for fiscal year 2007;

15           “(3) \$30,000,000 for fiscal year 2008;

16           “(4) \$50,000,000 for fiscal year 2009; and

17           “(5) \$50,000,000 for fiscal year 2010.”.

18          (b) RECLASSIFICATION.—The Law Revision Counsel  
19 shall reclassify the Methane Hydrate Research and Devel-  
20 opment Act of 2000 (30 U.S.C. 1902 note; Public Law  
21 106–193) to a new chapter at the end of title 30, United  
22 States Code.

1 **SEC. 954. RESEARCH AND DEVELOPMENT FOR COAL MIN-**  
2 **ING TECHNOLOGIES.**

3 (a) ESTABLISHMENT.—The Secretary shall carry out  
4 a program for research and development on coal mining  
5 technologies.

6 (b) COOPERATION.—In carrying out the program, the  
7 Secretary shall cooperate with appropriate Federal agen-  
8 cies, coal producers, trade associations, equipment manu-  
9 facturers, institutions of higher education with mining en-  
10 gineering departments, and other relevant entities.

11 (c) PROGRAM.—The research and development activi-  
12 ties carried out under this section shall—

13 (1) be guided by the mining research and devel-  
14 opment priorities identified by the Mining Industry  
15 of the Future Program and in the recommendations  
16 from relevant reports of the National Academy of  
17 Sciences on mining technologies;

18 (2) include activities exploring minimization of  
19 contaminants in mined coal that contribute to envi-  
20 ronmental concerns including development and dem-  
21 onstration of electromagnetic wave imaging ahead of  
22 mining operations;

23 (3) develop and demonstrate coal bed electro-  
24 magnetic wave imaging, spectroscopic reservoir anal-  
25 ysis technology, and techniques for horizontal drill-  
26 ing in order to—

- 1 (A) identify areas of high coal gas content;
- 2 (B) increase methane recovery efficiency;
- 3 (C) prevent spoilage of domestic coal re-
- 4 serves; and
- 5 (D) minimize water disposal associated
- 6 with methane extraction; and
- 7 (4) expand mining research capabilities at insti-
- 8 tutions of higher education.

9 **SEC. 955. COAL AND RELATED TECHNOLOGIES PROGRAM.**

10 (a) IN GENERAL.—In addition to the programs au-  
11 thorized under title II, the Secretary shall conduct a pro-  
12 gram of technology research, development, and demonstra-  
13 tion and commercial application for coal and power sys-  
14 tems, including programs to facilitate production and gen-  
15 eration of coal-based power through—

- 16 (1) innovations for existing plants;
- 17 (2) integrated gasification combined cycle;
- 18 (3) advanced combustion systems;
- 19 (4) turbines for synthesis gas derived from coal;
- 20 (5) carbon capture and sequestration research
- 21 and development;
- 22 (6) coal-derived transportation fuels and chemi-
- 23 cals;
- 24 (7) liquid fuels derived from low rank coal
- 25 water;

- 1 (8) removal of elemental mercury;
- 2 (9) solid fuels and feedstocks; and
- 3 (10) advanced coal-related research.

4 (b) COST AND PERFORMANCE GOALS.—

5 (1) IN GENERAL.—In carrying out programs  
6 authorized by this section, the Secretary shall iden-  
7 tify cost and performance goals for coal-based tech-  
8 nologies that would permit the continued cost-com-  
9 petitive use of coal for electricity generation, as  
10 chemical feedstocks, and as transportation fuel in  
11 2007, 2010, 2012, and 2015.

12 (2) ADMINISTRATION.—In establishing the cost  
13 and performance goals, the Secretary shall—

14 (A) consider activities and studies under-  
15 taken as of the date of enactment of this Act  
16 by industry in cooperation with the Department  
17 in support of the identification of the goals;

18 (B) consult with interested entities, includ-  
19 ing—

- 20 (i) coal producers;
- 21 (ii) industries using coal;
- 22 (iii) organizations that promote coal  
23 and advanced coal technologies;
- 24 (iv) environmental organizations; and



1 (v) organizations representing work-  
 2 ers;

3 (C) not later than 120 days after the date  
 4 of enactment of this Act, publish in the Federal  
 5 Register proposed draft cost and performance  
 6 goals for public comments; and

7 (D) not later than 180 days after the date  
 8 of enactment of this Act and every 4 years  
 9 thereafter, submit to Congress a report describ-  
 10 ing the final cost and performance goals for the  
 11 technologies that includes—

12 (i) a list of technical milestones; and

13 (ii) an explanation of how programs  
 14 authorized in this section will not duplicate  
 15 the activities authorized under the Clean  
 16 Coal Power Initiative authorized under  
 17 title II.

18 (c) POWDER RIVER BASIN AND FORT UNION LIG-  
 19 NITE COAL MERCURY REMOVAL.—

20 (1) IN GENERAL.—In addition to the programs  
 21 authorized by subsection (a), the Secretary may es-  
 22 tablish a program to test and develop technologies to  
 23 control and remove mercury emissions from subbitu-  
 24 minous coal mined in the Powder River Basin, and

1 Fort Union lignite coals, that are used for the gen-  
2 eration of electricity.

3 (2) EFFICACY OF MERCURY REMOVAL TECH-  
4 NOLOGY.—In carrying out the program under para-  
5 graph (1), the Secretary shall examine the efficacy  
6 of mercury removal technologies on coals described  
7 in that paragraph that are blended with other types  
8 of coal.

9 **SEC. 956. CARBON DIOXIDE CAPTURE RESEARCH AND DE-**  
10 **VELOPMENT.**

11 (a) PROGRAM.—The Secretary shall establish a pro-  
12 gram of research and development aimed at developing  
13 carbon dioxide capture technologies for pulverized coal  
14 combustion units.

15 (b) FOCUS.—The program under subsection (a) shall  
16 focus on—

17 (1) developing add-on carbon dioxide capture  
18 technologies, such as adsorption and absorption  
19 techniques and chemical processes, to remove carbon  
20 dioxide from the flue gas, producing concentrated  
21 streams of carbon dioxide potentially amenable to se-  
22 questration;

23 (2) combustion technologies that would directly  
24 produce concentrated streams of carbon dioxide po-  
25 tentially amenable to sequestration; and

7 SEC. 957. COMPLEX WELL TECHNOLOGY TESTING FACIL-  
8 ITY.

**Subtitle F—Science**

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle (including the amounts authorized under the amendment made by section 967(b) and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, research analysis, and infrastructure support)——

1 (1) \$4,153,000,000 for fiscal year 2006;

2 (2) \$4,586,000,000 for fiscal year 2007; and

3 (3) \$5,000,000,000 for fiscal year 2008.

4 (b) ALLOCATIONS.—From amounts authorized under  
5 subsection (a), the following sums are authorized:

6 (1) For activities under the Fusion Energy  
7 Sciences program (including activities under section  
8 962)—

9 (A) \$349,000,000 for fiscal year 2006;

10 (B) \$362,000,000 for fiscal year 2007; and

11 (C) \$377,000,000 for fiscal year 2008.

12 (2) For activities under the catalysis research  
13 program established under section 964—

14 (A) \$35,000,000 for fiscal year 2006;

15 (B) \$36,500,000 for fiscal year 2007; and

16 (C) \$38,200,000 for fiscal year 2008.

17 (3) For activities under the Genomes to Life  
18 Program established under section 968—

19 (A) \$170,000,000 for fiscal year 2006;

20 (B) \$325,000,000 for fiscal year 2007; and

21 (C) \$415,000,000 for fiscal year 2008.

22 (4) For construction and ancillary equipment  
23 for user facilities under section 968(d) for the  
24 Genomes to Life Program, of the amounts author-  
25 ized under paragraph (3)—

1 (A) \$70,000,000 for fiscal year 2006;

2 (B) \$175,000,000 for fiscal year 2007; and

3 (C) \$215,000,000 for fiscal year 2008.

4 (5) For activities under the Energy-Water Supply Technologies Program established under section  
5 970, \$30,000,000 for each of fiscal years 2006  
6 through 2008.

8 (c) FUSION ENERGY SCIENCES PROGRAM.—In addition to the funds authorized under subsection (b)(1), there  
9 are authorized to be appropriated for construction costs  
10 associated with the Fusion Energy Sciences Program  
11 under section 962—

13 (1) \$55,000,000 for fiscal year 2006;

14 (2) \$95,000,000 for fiscal year 2007; and

15 (3) \$115,000,000 for fiscal year 2008.

16 **SEC. 962. FUSION ENERGY SCIENCES PROGRAM.**

17 (a) DECLARATION OF POLICY.—It shall be the policy  
18 of the United States to conduct research, development,  
19 demonstration, and commercial applications to provide for  
20 the scientific, engineering, and commercial infrastructure  
21 necessary to ensure that the United States is competitive  
22 with other countries in providing fusion energy for its own  
23 needs and the needs of other countries, including by dem-  
24 onstrating electric power or hydrogen production for the

1 United States energy grid using fusion energy at the ear-  
2 liest date.

3 (b) PLANNING.—

4 (1) IN GENERAL.—Not later than 180 days  
5 after the date of enactment of this Act, the Sec-  
6 retary shall submit to Congress a plan (with pro-  
7 posed cost estimates, budgets, and lists of potential  
8 international partners) for the implementation of the  
9 policy described in subsection (a) in a manner that  
10 ensures that—

11 (A) existing fusion research facilities are  
12 more fully used;

13 (B) fusion science, technology, theory, ad-  
14 vanced computation, modeling, and simulation  
15 are strengthened;

16 (C) new magnetic and inertial fusion re-  
17 search and development facilities are selected  
18 based on scientific innovation and cost effective-  
19 ness, and the potential of the facilities to ad-  
20 vance the goal of practical fusion energy at the  
21 earliest date practicable;

22 (D) facilities that are selected are funded  
23 at a cost-effective rate;

24 (E) communication of scientific results and  
25 methods between the fusion energy science com-

1 community and the broader scientific and tech-  
2 nology communities is improved;

3 (F) inertial confinement fusion facilities  
4 are used to the extent practicable for the pur-  
5 pose of inertial fusion energy research and de-  
6 velopment;

7 (G) attractive alternative inertial and mag-  
8 netic fusion energy approaches are more fully  
9 explored; and

10 (H) to the extent practicable, the rec-  
11 ommendations of the Fusion Energy Sciences  
12 Advisory Committee in the report on workforce  
13 planning, dated March 2004, are carried out,  
14 including periodic reassessment of program  
15 needs.

16 (2) COSTS AND SCHEDULES.—The plan shall  
17 also address the status of and, to the extent prac-  
18 ticable, costs and schedules for—

19 (A) the design and implementation of  
20 international or national facilities for the test-  
21 ing of fusion materials; and

22 (B) the design and implementation of  
23 international or national facilities for the test-  
24 ing and development of key fusion technologies.

25 (c) UNITED STATES PARTICIPATION IN ITER.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) CONSTRUCTION.—

3 (i) IN GENERAL.—The term “con-  
4 struction” means—

5 (I) the physical construction of  
6 the ITER facility; and

7 (II) the physical construction,  
8 purchase, or manufacture of equip-  
9 ment or components that are specifi-  
10 cally designed for the ITER facility.

11 (ii) EXCLUSIONS.—The term “con-  
12 struction” does not include the design of  
13 the facility, equipment, or components.

14 (B) ITER.—The term “ITER” means the  
15 international burning plasma fusion research  
16 project in which the President announced  
17 United States participation on January 30,  
18 2003, or any similar international project.

19 (2) PARTICIPATION.—The United States may  
20 participate in the ITER only in accordance with this  
21 subsection.

22 (3) AGREEMENT.—

23 (A) IN GENERAL.—The Secretary may ne-  
24 gotiate an agreement for United States partici-  
25 pation in the ITER.



1 (B) CONTENTS.—Any agreement for  
2 United States participation in the ITER shall,  
3 at a minimum—

4 (i) clearly define the United States fi-  
5 nancial contribution to construction and  
6 operating costs, as well as any other costs  
7 associated with a project;

8 (ii) ensure that the share of high-tech-  
9 nology components of the ITER manufac-  
10 tured in the United States is at least pro-  
11 portionate to the United States financial  
12 contribution to the ITER;

13 (iii) ensure that the United States will  
14 not be financially responsible for cost over-  
15 runs in components manufactured in other  
16 ITER participating countries;

17 (iv) guarantee the United States full  
18 access to all data generated by the ITER;

19 (v) enable United States researchers  
20 to propose and carry out an equitable  
21 share of the experiments at the ITER;

22 (vi) provide the United States with a  
23 role in all collective decisionmaking related  
24 to the ITER; and

1 (vii) describe the process for dis-  
2 continuing or decommissioning the ITER  
3 and any United States role in that process.

4 (4) PLAN.—

5 (A) DEVELOPMENT.—The Secretary, in  
6 consultation with the Fusion Energy Sciences  
7 Advisory Committee, shall develop a plan for  
8 the participation of United States scientists in  
9 the ITER that shall include—

10 (i) the United States research agenda  
11 for the ITER;

12 (ii) methods to evaluate whether the  
13 ITER is promoting progress toward mak-  
14 ing fusion a reliable and affordable source  
15 of power; and

16 (iii) a description of how work at the  
17 ITER will relate to other elements of the  
18 United States fusion program.

19 (B) REVIEW.—The Secretary shall request  
20 a review of the plan by the National Academy  
21 of Sciences.

22 (5) LIMITATION.—No Federal funds shall be  
23 expended for the construction of the ITER until the  
24 Secretary has submitted to Congress—

1 (A) the agreement negotiated in accord-  
2 ance with paragraph (3) and 120 days have  
3 elapsed since that submission;

4 (B) a report describing the management  
5 structure of the ITER and providing a fixed  
6 dollar estimate of the cost of United States par-  
7 ticipation in the construction of the ITER, and  
8 120 days have elapsed since that submission;

9 (C) a report describing how United States  
10 participation in the ITER will be funded with-  
11 out reducing funding for other programs in the  
12 Office of Science (including other fusion pro-  
13 grams), and 60 days have elapsed since that  
14 submission; and

15 (D) the plan required by paragraph (4)  
16 (but not the National Academy of Sciences re-  
17 view of that plan), and 60 days have elapsed  
18 since that submission.

19 (6) ALTERNATIVE TO ITER.—

20 (A) IN GENERAL.—If at any time during  
21 the negotiations on the ITER, the Secretary de-  
22 termines that construction and operation of the  
23 ITER is unlikely or infeasible, the Secretary  
24 shall submit to Congress, along with the budget  
25 request of the President submitted to Congress

1           for the following fiscal year, a plan for imple-  
2           menting a domestic burning plasma experiment  
3           such as the Fusion Ignition Research Experi-  
4           ment, including costs and schedules for the  
5           plan.

6                   (B) ADMINISTRATION.—The Secretary  
7           shall—

8                           (i) refine the plan in full consultation  
9                           with the Fusion Energy Sciences Advisory  
10                          Committee; and

11                          (ii) transmit the plan to the National  
12                          Academy of Sciences for review.

13 **SEC. 963. SUPPORT FOR SCIENCE AND ENERGY FACILITIES**  
14 **AND INFRASTRUCTURE.**

15           (a) FACILITY AND INFRASTRUCTURE POLICY.—

16                   (1) IN GENERAL.—The Secretary shall develop  
17                   and implement a strategy for facilities and infra-  
18                   structure supported primarily from the Office of  
19                   Science, the Office of Energy Efficiency and Renew-  
20                   able Energy, the Office of Fossil Energy, or the Of-  
21                   fice of Nuclear Energy, Science and Technology Pro-  
22                   grams at all National Laboratories and single-pur-  
23                   pose research facilities.

24                   (2) STRATEGY.—The strategy shall provide  
25                   cost-effective means for—

- 1 (A) maintaining existing facilities and in-
- 2 frastructure;
- 3 (B) closing unneeded facilities;
- 4 (C) making facility modifications; and
- 5 (D) building new facilities.

6 (b) REPORT.—

7 (1) IN GENERAL.—The Secretary shall prepare  
8 and submit, along with the budget request of the  
9 President submitted to Congress for fiscal year  
10 2007, a report describing the strategy developed  
11 under subsection (a).

12 (2) CONTENTS.—For each National Laboratory  
13 and single-purpose research facility that is primarily  
14 used for science and energy research, the report  
15 shall contain—

16 (A) the current priority list of proposed fa-  
17 cilities and infrastructure projects, including  
18 cost and schedule requirements;

19 (B) a current 10-year plan that dem-  
20 onstrates the reconfiguration of its facilities and  
21 infrastructure to meet its missions and to ad-  
22 dress its long-term operational costs and return  
23 on investment;

24 (C) the total current budget for all facili-  
25 ties and infrastructure funding; and

1 (D) the current status of each facility and  
2 infrastructure project compared to the original  
3 baseline cost, schedule, and scope.

4 **SEC. 964. CATALYSIS RESEARCH PROGRAM.**

5 (a) ESTABLISHMENT.—The Secretary, acting  
6 through the Office of Science, shall support a program of  
7 research and development in catalysis science consistent  
8 with the statutory authorities of the Department related  
9 to research and development.

10 (b) COMPONENTS.—The program shall include ef-  
11 forts to—

12 (1) enable catalyst design using combinations of  
13 experimental and mechanistic methodologies coupled  
14 with computational modeling of catalytic reactions at  
15 the molecular level;

16 (2) develop techniques for high throughput syn-  
17 thesis, assay, and characterization at nanometer and  
18 subnanometer scales in situ under actual operating  
19 conditions;

20 (3) synthesize catalysts with specific site archi-  
21 tectures;

22 (4) conduct research on the use of precious  
23 metals for catalysis; and

24 (5) translate molecular understanding to the  
25 design of catalytic compounds.

1       (c) DUTIES OF THE OFFICE OF SCIENCE.—In car-  
2 rying out the program, the Director of the Office of  
3 Science shall—

4           (1) support both individual investigators and  
5 multidisciplinary teams of investigators to pioneer  
6 new approaches in catalytic design;

7           (2) develop, plan, construct, acquire, share, or  
8 operate special equipment or facilities for the use of  
9 investigators in collaboration with national user fa-  
10 cilities, such as nanoscience and engineering centers;

11          (3) support technology transfer activities to  
12 benefit industry and other users of catalysis science  
13 and engineering; and

14          (4) coordinate research and development activi-  
15 ties with industry and other Federal agencies.

16       (d) TRIENNIAL ASSESSMENT.—Not later than 3  
17 years after the date of enactment of this Act and every  
18 3 years thereafter, the National Academy of Sciences  
19 shall—

20           (1) review the catalysis program to measure—

21               (A) gains made in the fundamental science  
22 of catalysis; and

23               (B) progress towards developing new fuels  
24 for energy production and material fabrication  
25 processes; and

1           (2) submit to Congress a report describing the  
2       results of the review.

3   **SEC. 965. HYDROGEN.**

4       (a) IN GENERAL.—The Secretary shall conduct a  
5   program of fundamental research and development in sup-  
6   port of programs authorized under title VIII.

7       (b) METHODS.—The program shall include support  
8   for methods of generating hydrogen without the use of  
9   natural gas.

10   **SEC. 966. SOLID STATE LIGHTING.**

11       The Secretary shall conduct a program of funda-  
12   mental research on advance solid state lighting in support  
13   of the Next Generation Lighting Initiative carried out  
14   under section 912.

15   **SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY**  
16                   **MISSIONS.**

17       (a) PROGRAM.—

18           (1) IN GENERAL.—The Secretary shall conduct  
19   an advanced scientific computing research and devel-  
20   opment program that includes activities related to  
21   applied mathematics and activities authorized by the  
22   Department of Energy High-End Computing Revi-  
23   talization Act of 2004 (15 U.S.C. 5541 et seq.).

24           (2) GOAL.—The Secretary shall carry out the  
25   program with the goal of supporting departmental



1 missions, and providing the high-performance com-  
2 putational, networking, advanced visualization tech-  
3 nologies, and workforce resources, that are required  
4 for world leadership in science.

5 (b) HIGH-PERFORMANCE COMPUTING.—Section 203  
6 of the High-Performance Computing Act of 1991 (15  
7 U.S.C. 5523) is amended to read as follows:

8 **“SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.**

9 “(a) GENERAL RESPONSIBILITIES.—As part of the  
10 Program described in title I, the Secretary of Energy  
11 shall—

12 “(1) conduct and support basic and applied re-  
13 search in high-performance computing and net-  
14 working to support fundamental research in science  
15 and engineering disciplines related to energy applica-  
16 tions; and

17 “(2) provide computing and networking infra-  
18 structure support, including—

19 “(A) the provision of high-performance  
20 computing systems that are among the most  
21 advanced in the world in terms of performance  
22 in solving scientific and engineering problems;  
23 and

24 “(B) support for advanced software and  
25 applications development for science and engi-

1           neering disciplines related to energy applica-  
2           tions.

3           “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Secretary of En-  
5 ergy such sums as are necessary to carry out this sec-  
6 tion.”.

7 **SEC. 968. GENOMES TO LIFE PROGRAM.**

8           (a) ESTABLISHMENT.—The Secretary shall carry out  
9 a program of research, development, demonstration, and  
10 commercial application, to be known as the “Genomes to  
11 Life Program”, in microbial and plant systems biology,  
12 protein science, and computational biology consistent with  
13 the statutory authorities of the Department.

14          (b) PLANNING.—

15           (1) IN GENERAL.—The Secretary shall prepare  
16 a program plan that describes how knowledge and  
17 capabilities would be developed by the program and  
18 applied to missions of the Department relating to  
19 energy security, environmental cleanup, and national  
20 security.

21           (2) CONSULTATION.—The Secretary shall pre-  
22 pare the program plan in consultation with the  
23 heads of other Federal agencies that carry out rel-  
24 evant technology programs.

1           (3) LONG-TERM GOALS.—In preparing the pro-  
2           gram plan, the Secretary shall focus on applying  
3           science and technology to achieve the long-term  
4           goals of the program, including—

5                   (A) contributing to the independence of the  
6           United States from foreign energy sources, in-  
7           cluding production of hydrogen;

8                   (B) converting carbon dioxide to organic  
9           carbon;

10                  (C) advancing environmental cleanup;

11                  (D) providing the science and technology  
12           for new biotechnology industries; and

13                  (E) improving national security and com-  
14           bating bioterrorism.

15           (4) SHORT-TERM GOALS.—In preparing the  
16           program plan, the Secretary shall—

17                   (A) establish specific short-term goals; and

18                   (B) update the goals with the annual  
19           budget submission of the Secretary.

20           (c) ADMINISTRATION.—In carrying out the program,  
21           the Secretary shall—

22                   (1) support individual investigators and multi-  
23           disciplinary teams of investigators;

24                   (2) subject to subsection (d), develop, plan, con-  
25           struct, acquire, or operate special equipment or fa-

1 facilities for the use of investigators conducting re-  
2 search, development, demonstration, or commercial  
3 application in systems biology and proteomics;

4 (3) support technology transfer activities to  
5 benefit industry and other users of systems biology  
6 and proteomics; and

7 (4) coordinate activities by the Department  
8 with industry and other Federal agencies.

9 (d) GENOMES TO LIFE USER FACILITIES AND AN-  
10 CILLARY EQUIPMENT.—

11 (1) IN GENERAL.—Subject to the availability of  
12 funds to carry out this subsection, the amounts  
13 made available under section 961(b)(4) shall be  
14 available for—

15 (A) projects to develop, plan, construct, ac-  
16 quire, or operate special equipment, or instru-  
17 mentation; or

18 (B) facilities at National Laboratories for  
19 investigators conducting research, development,  
20 demonstration, and commercial application in  
21 systems biology and proteomics and associated  
22 biological disciplines.

23 (2) PROJECTS.—Projects under paragraph  
24 (1)(A) may include—

1 (A) the identification and characterization  
2 of multiprotein complexes;

3 (B) characterization of gene regulatory  
4 networks;

5 (C) characterization of the functional rep-  
6 ertoire of complex microbial communities in  
7 their natural environments at the molecular  
8 level; and

9 (D) development of computational methods  
10 and capabilities to advance understanding of  
11 complex biological systems and predict their be-  
12 havior.

13 (3) FACILITIES.—Facilities under paragraph  
14 (1)(B) may include facilities, equipment, or instru-  
15 mentation for—

16 (A) the production and characterization of  
17 proteins;

18 (B) whole proteome analysis;

19 (C) characterization and imaging of molec-  
20 ular machines; and

21 (D) analysis and modeling of cellular sys-  
22 tems.

23 (4) FACILITIES LOCATION AND MISSION.—The  
24 number, location, and mission of facilities under  
25 paragraph (1)(B) shall be determined in a plan pro-

1        vided by the Secretary to Congress before the con-  
2        struction of any such facility.

3            (5) COLLABORATION.—

4            (A) IN GENERAL.—In carrying out this  
5        subsection, the Secretary shall encourage col-  
6        laborations among institutions of higher edu-  
7        cation, National Laboratories, and industry at  
8        facilities.

9            (B) TECHNOLOGY TRANSFER.—All facili-  
10       ties under this subsection shall promote tech-  
11       nology transfer to other institutions.

12   **SEC. 969. FISSION AND FUSION ENERGY MATERIALS RE-**  
13   **SEARCH PROGRAM.**

14        (a) IN GENERAL.—Along with the budget request of  
15       the President submitted to Congress for fiscal year 2007,  
16       the Secretary shall establish a research and development  
17       program on material science issues presented by advanced  
18       fission reactors and the fusion energy program of the De-  
19       partment.

20        (b) ADMINISTRATION.—In carrying out the program,  
21       the Secretary shall develop—

22            (1) a catalog of material properties required for  
23       applications described in subsection (a);

24            (2) theoretical models for materials possessing  
25       the required properties;

1           (3) benchmark models against existing data;  
2       and

3           (4) a roadmap to guide further research and  
4       development in the area covered by the program.

5 **SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PRO-**  
6 **GRAM.**

7       (a) DEFINITIONS.—In this section:

8           (1) FOUNDATION.—The term “Foundation”  
9       means the American Water Works Association Re-  
10      search Foundation.

11          (2) INDIAN TRIBE.—The term “Indian tribe”  
12      has the meaning given the term in section 4 of the  
13      Indian Self-Determination and Education Assistance  
14      Act (25 U.S.C. 450b).

15          (3) PROGRAM.—The term “Program” means  
16      the Energy-Water Supply Technologies Program es-  
17      tablished by subsection (b).

18       (b) ESTABLISHMENT.—There is established, within  
19      the Office of Biological and Environmental Research of  
20      the Office of Science, a program, to be known as the “En-  
21      ergy-Water Supply Technologies Program”, to study—

22           (1) energy-related issues associated with water  
23      resources and municipal waterworks; and

24           (2) supply issues related to energy production.

1       (c) PROGRAM AREAS.—In carrying out the Program,  
2 the Secretary shall conduct research and development, in-  
3 cluding research and development relating to—

4           (1) the arsenic removal program under sub-  
5 section (d);

6           (2) the desalination research program under  
7 subsection (e);

8           (3) the water and energy sustainability program  
9 under subsection (f); and

10          (4) other energy-intensive water supply and  
11 treatment technologies and other technologies se-  
12 lected by the Secretary.

13       (d) ARSENIC REMOVAL PROGRAM.—

14           (1) IN GENERAL.—As soon as practicable after  
15 the date of enactment of this Act, the Secretary  
16 shall enter into a contract with the Foundation to  
17 use the facilities, institutions, and relationships de-  
18 scribed in the matter under the heading “BIOLOGI-  
19 CAL AND ENVIRONMENTAL RESEARCH” of title III of  
20 Senate Report 107–220 to accompany the Consoli-  
21 dated Appropriations Resolution, 2003 (Public Law  
22 108–7) to carry out a research program to develop  
23 and demonstrate innovative arsenic removal tech-  
24 nologies.



1           (2) RESEARCH.—In carrying out the arsenic re-  
2           moval program, the Foundation shall, to the max-  
3           imum extent practicable, conduct research on means  
4           of—

5                   (A) reducing energy costs incurred in  
6           using arsenic removal technologies;

7                   (B) minimizing materials, operating, and  
8           maintenance costs incurred in using arsenic re-  
9           moval technologies; and

10                  (C) minimizing any quantities of waste (es-  
11           pecially hazardous waste) that result from use  
12           of arsenic removal technologies.

13           (3) DEMONSTRATION PROJECTS.—The Founda-  
14           tion shall carry out peer-reviewed research and dem-  
15           onstration projects to develop and demonstrate  
16           water purification technologies.

17           (4) ADMINISTRATION.—Under the arsenic re-  
18           moval program—

19                   (A) demonstration projects shall be imple-  
20           mented with municipal water system partners  
21           to demonstrate the applicability of innovative  
22           arsenic removal technologies in areas with dif-  
23           ferent water chemistries representative of areas  
24           across the United States with arsenic levels

1 near or exceeding the guidelines of the Environ-  
2 mental Protection Agency; and

3 (B) not less than 40 percent of the funds  
4 of the Department used for demonstration  
5 projects under the arsenic removal program  
6 shall be expended on projects focused on the  
7 needs of and in partnership with rural commu-  
8 nities or Indian tribes.

9 (5) EVALUATIONS; TECHNOLOGY TRANSFER.—

10 The Foundation shall develop evaluations of cost ef-  
11 fectiveness of arsenic removal technologies used in  
12 the program and an education, training, and tech-  
13 nology transfer component for the program.

14 (6) COORDINATION.—The Secretary shall con-

15 sult with the Administrator of the Environmental  
16 Protection Agency to ensure that activities under the  
17 arsenic removal program are coordinated with ap-  
18 propriate programs of the Environmental Protection  
19 Agency and other Federal agencies, State programs,  
20 and academia.

21 (7) REPORTS.—Not later than 1 year after the

22 date of commencement of the arsenic removal pro-  
23 gram and annually thereafter, the Secretary shall  
24 submit to Congress a report on the results of the ar-  
25 senic removal program.

1 (e) DESALINATION PROGRAM.—

2 (1) IN GENERAL.—The Secretary, in coopera-  
3 tion with the Commissioner of Reclamation, shall  
4 carry out a desalination research program in accord-  
5 ance with the desalination technology progress plan  
6 developed under the matter under the heading  
7 “WATER AND RELATED RESOURCES” under the  
8 heading “BUREAU OF RECLAMATION” of title II of  
9 the Energy and Water Development Appropriations  
10 Act, 2002 (115 Stat. 498) and described in Senate  
11 Report 107–39 to accompany S. 1171 (107th Con-  
12 gress).

13 (2) ADMINISTRATION.—The desalination pro-  
14 gram shall—

15 (A) draw on the national laboratory part-  
16 nership established with the Bureau of Rec-  
17 lamation to develop the national Desalination  
18 and Water Purification Technology Roadmap  
19 for next-generation desalination technology re-  
20 leased in January 2003;

21 (B) focus on research relating to, and de-  
22 velopment and demonstration of, technologies  
23 that are appropriate for use in desalinating  
24 brackish groundwater, wastewater, and other

1 saline water supplies and disposal of residual  
2 brine or salt; and

3 (C) consider the use of renewable energy  
4 sources.

5 (3) CONSTRUCTION PROJECTS.—Under the de-  
6 salination program, funds made available for the  
7 program may be used for construction projects, in-  
8 cluding completion of the National Desalination Re-  
9 search Center for brackish groundwater and ongoing  
10 facility operational costs.

11 (4) STEERING COMMITTEE.—

12 (A) ESTABLISHMENT.—The Secretary and  
13 the Commissioner of Reclamation shall jointly  
14 establish a steering committee for the desalina-  
15 tion program.

16 (B) CHAIR.—The steering committee shall  
17 be jointly chaired by—

18 (i) 1 representative from the Pro-  
19 gram; and

20 (ii) 1 representative from the Bureau  
21 of Reclamation.

22 (f) WATER AND ENERGY SUSTAINABILITY PRO-  
23 GRAM.—

24 (1) IN GENERAL.—The Secretary shall carry  
25 out a research program to develop technologies to

1 assist in ensuring that sufficient quantities of water  
2 are available to meet present and future require-  
3 ments.

4 (2) ASSESSMENTS.—Under the program and in  
5 collaboration with other programs within the De-  
6 partment (including programs within the Offices of  
7 Fossil Energy and Energy Efficiency and Renewable  
8 Energy), the Secretary of the Interior, the Corps of  
9 Engineers, the Environmental Protection Agency,  
10 the Department of Commerce, the Department of  
11 Defense, State agencies, nongovernmental agencies,  
12 and academia, the Secretary shall assess the current  
13 state of knowledge and program activities con-  
14 cerning—

15 (A) future water resources needed to sup-  
16 port energy production within the United  
17 States, including the water needs for hydro-  
18 power and thermo-electric power generation;

19 (B) future energy resources needed to sup-  
20 port development of water purification and  
21 treatment, including desalination and long-dis-  
22 tance water conveyance;

23 (C) reuse and treatment of water produced  
24 as a byproduct of oil and gas extraction;

1 (D) use of impaired and nontraditional  
2 water supplies for energy production and other  
3 uses; and

4 (E) technologies to reduce water use in en-  
5 ergy production.

6 (3) TOOLS.—In addition to the assessments  
7 conducted under paragraph (2), the Secretary  
8 shall—

9 (A) develop a research plan that defines  
10 the scientific and technology development needs  
11 and activities required to support—

12 (i) long-term water needs and plan-  
13 ning for energy sustainability;

14 (ii) use of impaired water for energy  
15 production and other uses; and

16 (iii) reduction of water use in energy  
17 production;

18 (B) carry out the research plan required  
19 under subparagraph (A), including development  
20 of numerical models, decision analysis tools,  
21 economic analysis tools, databases, planning  
22 methodologies, and strategies;

23 (C) implement at least 3 planning dem-  
24 onstration projects using the models, tools, and  
25 planning approaches developed under subpara-

graph (B) and assess the viability of those tools on the scale of river basins with at least 1 demonstration involving an international border; and

(D) transfer those tools to other Federal agencies, State agencies, nonprofit organizations, industry, and academia for use in their energy and water sustainability efforts.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that—

(A) describes the research elements described under paragraph (2); and

(B) makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) COST SHARING.—

(1) RESEARCH PROJECTS.—A research project under this section shall not require cost-sharing.

(2) DEMONSTRATION PROJECTS.—Each demonstration project carried out under the Program shall be carried out in accordance with the cost-sharing requirements of section 1002.

1 **SEC. 971. SPALLATION NEUTRON SOURCE.**

2 (a) DEFINITIONS.—In this section:

3 (1) SING.—The term “SING” means the  
4 Spallation Neutron Source Instruments Next Gen-  
5 eration major item of equipment.

6 (2) SNS POWER UPGRADE.—The term “SNS  
7 power upgrade” means the Spallation Neutron  
8 Source power upgrade described in the 20-year fa-  
9 cilities plan of the Office of Science of the Depart-  
10 ment.

11 (3) SNS SECOND TARGET STATION.—The term  
12 “SNS second target station” the Spallation Neutron  
13 Source second target station described in the 20-  
14 year facilities plan of the Office of Science of the  
15 Department.

16 (4) SPALLATION NEUTRON SOURCE FACILITY.—  
17 The terms “Spallation Neutron Source Facility” and  
18 “Facility” mean the completed Spallation Neutron  
19 Source scientific user facility located at Oak Ridge  
20 National Laboratory, Oak Ridge, Tennessee.

21 (5) SPALLATION NEUTRON SOURCE PROJECT.—  
22 The terms “Spallation Neutron Source Project” and  
23 “Project” means Department Project 99-E-334,  
24 Oak Ridge National Laboratory, Oak Ridge, Ten-  
25 nessee.

26 (b) SPALLATION NEUTRON SOURCE PROJECT.—



1           (1) IN GENERAL.—The Secretary shall submit  
 2           to Congress, as part of the annual budget request of  
 3           the President submitted to Congress, a report on  
 4           progress on the Spallation Neutron Source Project.

5           (2) CONTENTS.—The report shall include for  
 6           the Project—

7                   (A) a description of the achievement of  
 8                   milestones;

9                   (B) a comparison of actual costs to esti-  
 10                  mated costs; and

11                  (C) any changes in estimated Project costs  
 12                  or schedule.

13       (c) SPALLATION NEUTRON SOURCE FACILITY  
 14       PLAN.—

15           (1) IN GENERAL.—The Secretary shall develop  
 16           an operational plan for the Spallation Neutron  
 17           Source Facility that ensures that the Facility is em-  
 18           ployed to the full capability of the Facility in sup-  
 19           port of the study of advanced materials, nanoscience,  
 20           and other missions of the Office of Science of the  
 21           Department.

22           (2) PLAN.—The operational plan shall—

23                   (A) include a plan for the operation of an  
 24                   effective scientific user program that—

1 (i) is based on peer review of pro-  
2 posals submitted for use of the Facility;

3 (ii) includes scientific and technical  
4 support to ensure that external users, in-  
5 cluding researchers based at institutions of  
6 higher education, are able to make full use  
7 of a variety of high quality scientific in-  
8 struments; and

9 (iii) phases in systems upgrades to en-  
10 sure that the Facility remains at the fore-  
11 front of international scientific endeavors  
12 in the field of the Facility throughout the  
13 operating life of the Facility;

14 (B) include an ongoing program to develop  
15 new instruments that builds on the high per-  
16 formance neutron source and that allows neu-  
17 tron scattering techniques to be applied to a  
18 growing range of scientific problems and dis-  
19 ciplines; and

20 (C) address the status of and, to the max-  
21 imum extent practicable, costs and schedules  
22 for—

23 (i) full user mode operations of the  
24 Facility;

- 1 (ii) instrumentation built at the Facil-
- 2 ity during the operating phase through full
- 3 use of the experimental hall, including the
- 4 SING;
- 5 (iii) the SNS power upgrade; and
- 6 (iv) the SNS second target station.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) SPALLATION NEUTRON SOURCE PROJECT.—

9 There is authorized to be appropriated to carry out  
10 the Spallation Neutron Source Project for the life-  
11 time of the Project \$1,411,700,000 for total project  
12 costs, of which—

13 (A) \$1,192,700,000 shall be used for the  
14 costs of construction; and

15 (B) \$219,000,000 shall be used for other  
16 Project costs.

17 (2) SPALLATION NEUTRON SOURCE FACILITY.—

18 (A) IN GENERAL.—Except as provided in  
19 subparagraph (B), there is authorized to be ap-  
20 propriated for the Spallation Neutron Source  
21 Facility for—

22 (i) the SING, \$75,000,000 for fiscal  
23 year 2006; and

1 (ii) the SNS power upgrade,  
 2 \$160,000,000 for each of fiscal years 2007  
 3 and 2008.

4 (B) INSUFFICIENT STOCKPILES OF HEAVY  
 5 WATER.—If stockpiles of heavy water of the  
 6 Department are insufficient to meet the needs  
 7 of the Facility, there is authorized to be appro-  
 8 priated for the Facility \$172,000,000 for fiscal  
 9 year 2007.

## 10 **Subtitle G—International** 11 **Cooperation**

### 12 **SEC. 981. WESTERN HEMISPHERE ENERGY COOPERATION.**

13 (a) PROGRAM.—The Secretary shall carry out a pro-  
 14 gram to promote cooperation on energy issues with coun-  
 15 tries of the Western Hemisphere.

16 (b) ACTIVITIES.—Under the program, the Secretary  
 17 shall fund activities to work with countries of the Western  
 18 Hemisphere to—

- 19 (1) increase the production of energy supplies;
- 20 (2) improve energy efficiency; and
- 21 (3) assist in the development and transfer of
- 22 energy supply and efficiency technologies that would
- 23 have a beneficial impact on world energy markets.

24 (c) PARTICIPATION BY INSTITUTIONS OF HIGHER  
 25 EDUCATION.—To the extent practicable, the Secretary

1 shall carry out the program under this section with the  
2 participation of institutions of higher education so as to  
3 take advantage of the acceptance of institutions of higher  
4 education by countries of the Western Hemisphere as  
5 sources of unbiased technical and policy expertise when  
6 assisting the Secretary in—

7 (1) evaluating new technologies;

8 (2) resolving technical issues;

9 (3) working with those countries in the develop-  
10 ment of new policies; and

11 (4) training policymakers, particularly in the  
12 case of institutions of higher education that involve  
13 the participation of minority students, such as—

14 (A) Hispanic-serving institutions; and

15 (B) part B institutions.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
17 are authorized to be appropriated to carry out this sec-  
18 tion—

19 (1) \$10,000,000 for fiscal year 2006;

20 (2) \$13,000,000 for fiscal year 2007; and

21 (3) \$16,000,000 for fiscal year 2008.

22 **SEC. 982. COOPERATION BETWEEN UNITED STATES AND**  
23 **ISRAEL.**

24 (a) FINDINGS.—Congress finds that—

1           (1) on February 1, 1996, the United States and  
2       Israel signed the agreement entitled “Agreement be-  
3       tween the Department of Energy of the United  
4       States of America and the Ministry of Energy and  
5       Infrastructure of Israel Concerning Energy Coopera-  
6       tion”, (referred to in this section as the “Agree-  
7       ment”) to establish a framework for collaboration  
8       between the United States and Israel in energy re-  
9       search and development activities;

10          (2) the Agreement entered into force in Feb-  
11       ruary 2000;

12          (3) in February 2005, the Agreement was auto-  
13       matically renewed for 1 additional 5-year period pur-  
14       suant to Article X of the Agreement; and

15          (4) under the Agreement, the United States  
16       and Israel may cooperate in energy research and de-  
17       velopment in a variety of alternative and advanced  
18       energy sectors.

19       (b) REPORT TO CONGRESS.—Not later than 90 days  
20   after the date of enactment of this Act, the Secretary shall  
21   submit to the Committee on Energy and Natural Re-  
22   sources of the Senate and the Committee on Energy and  
23   Commerce of the House of Representatives a report that  
24   describes—

1           (1) the ways in which the United States and  
2       Israel have cooperated on energy research and devel-  
3       opment activities under the Agreement;

4           (2) projects initiated pursuant to the Agree-  
5       ment; and

6           (3) plans for future cooperation and joint  
7       projects under the Agreement.

8       (c) SENSE OF CONGRESS.—It is the sense of Con-  
9       gress that energy cooperation between the Governments  
10      of the United States and Israel is mutually beneficial in  
11      the development of energy technology.

## 12           **TITLE X—DEPARTMENT OF** 13           **ENERGY MANAGEMENT**

### 14      **SEC. 1001. AVAILABILITY OF FUNDS.**

15      Funds authorized to be appropriated to the Depart-  
16      ment under this Act or an amendment made by this Act  
17      shall remain available until expended.

### 18      **SEC. 1002. COST SHARING.**

19      (a) APPLICABILITY.—Notwithstanding any other pro-  
20      vision of law, in carrying out a research, development,  
21      demonstration, or commercial application activity that is  
22      initiated after the date of enactment of this section, the  
23      Secretary shall require cost-sharing in accordance with  
24      this section.

25      (b) RESEARCH AND DEVELOPMENT.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graphs (2) and (3) and subsection (f), the Secretary  
3           shall require not less than 20 percent of the cost of  
4           a research or development activity described in sub-  
5           section (a) to be provided by a non-Federal source.

6           (2) EXCLUSION.—Paragraph (1) shall not apply  
7           to a research or development activity described in  
8           subsection (a) that is of a basic or fundamental na-  
9           ture, as determined by the appropriate officer of the  
10          Department.

11          (3) REDUCTION.—The Secretary may reduce or  
12          eliminate the requirement of paragraph (1) for a re-  
13          search and development activity of an applied nature  
14          if the Secretary determines that the reduction is nec-  
15          essary and appropriate.

16          (c) DEMONSTRATION AND COMMERCIAL APPLICA-  
17          TION.—

18               (1) IN GENERAL.—Except as provided in para-  
19               graph (2) and subsection (f), the Secretary shall re-  
20               quire that not less than 50 percent of the cost of a  
21               demonstration or commercial application activity de-  
22               scribed in subsection (a) to be provided by a non-  
23               Federal source.

24               (2) REDUCTION OF NON-FEDERAL SHARE.—  
25          The Secretary may reduce the non-Federal share re-



1       quired under paragraph (1) if the Secretary deter-  
2       mines the reduction to be necessary and appropriate,  
3       taking into consideration any technological risk re-  
4       lating to the activity.

5       (d) CALCULATION OF AMOUNT.—In calculating the  
6       amount of a non-Federal contribution under this section,  
7       the Secretary—

8               (1) may include allowable costs in accordance  
9       with the applicable cost principles, including—

10               (A) cash;

11               (B) personnel costs;

12               (C) the value of a service, other resource,  
13       or third party in-kind contribution determined  
14       in accordance with the applicable circular of the  
15       Office of Management and Budget;

16               (D) indirect costs or facilities and adminis-  
17       trative costs; or

18               (E) any funds received under the power  
19       program of the Tennessee Valley Authority (ex-  
20       cept to the extent that such funds are made  
21       available under an annual appropriation Acts);  
22       and

23       (2) shall not include—

1 (A) revenues or royalties from the prospec-  
 2 tive operation of an activity beyond the time  
 3 considered in the award;

4 (B) proceeds from the prospective sale of  
 5 an asset of an activity; or

6 (C) other appropriated Federal funds.

7 (e) REPAYMENT OF FEDERAL SHARE.—The Sec-  
 8 retary shall not require repayment of the Federal share  
 9 of a cost-shared activity under this section as a condition  
 10 of making an award.

11 (f) EXCLUSIONS.—This section shall not apply to—

12 (1) a cooperative research and development  
 13 agreement under the Stevenson-Wydler Technology  
 14 Innovation Act of 1990 (15 U.S.C. 3701 et seq.);

15 (2) a fee charged for the use of a Department  
 16 facility; or

17 (3) an award under—

18 (A) the small business innovation research  
 19 program under section 9 of the Small Business  
 20 Act (15 U.S.C. 638); or

21 (B) the small business technology transfer  
 22 program under that section.

23 **SEC. 1003. MERIT REVIEW OF PROPOSALS.**

24 Awards of funds authorized under this Act or an  
 25 amendment made by this Act shall be made only after an

1 impartial review of the scientific and technical merit of  
2 the proposals for the awards has been carried out by or  
3 for the Department.

4 **SEC. 1004. EXTERNAL TECHNICAL REVIEW OF DEPART-**  
5 **MENTAL PROGRAMS.**

6 (a) NATIONAL ENERGY RESEARCH AND DEVELOP-  
7 MENT ADVISORY BOARDS.—

8 (1) ESTABLISHMENT.—The Secretary shall es-  
9 tablish 1 or more advisory boards to review research,  
10 development, demonstration, and commercial appli-  
11 cation programs of the Department in energy effi-  
12 ciency, renewable energy, nuclear energy, and fossil  
13 energy.

14 (2) ALTERNATIVES.—The Secretary may—

15 (A) designate an existing advisory board  
16 within the Department to fulfill the responsibil-  
17 ities of an advisory board under this section;  
18 and

19 (B) enter into appropriate arrangements  
20 with the National Academy of Sciences to es-  
21 tablish such an advisory board.

22 (b) USE OF EXISTING COMMITTEES.—The Secretary  
23 shall continue to use the scientific program advisory com-  
24 mittees chartered under the Federal Advisory Committee

1 Act (5 U.S.C. App.) by the Office of Science to oversee  
2 research and development programs under that Office.

3 (c) MEMBERSHIP.—Each advisory board under this  
4 section shall consist of persons with appropriate expertise  
5 representing a diverse range of interests.

6 (d) MEETINGS AND GOALS.—

7 (1) MEETINGS.—Each advisory board under  
8 this section shall meet at least semiannually to re-  
9 view and advise on the progress made by the respec-  
10 tive 1 or more research, development, demonstration,  
11 and commercial application programs.

12 (2) GOALS.—The advisory board shall review  
13 the measurable cost and performance-based goals for  
14 the programs as established under section 902, and  
15 the progress on meeting the goals.

16 (e) PERIODIC REVIEWS AND ASSESSMENTS.—

17 (1) IN GENERAL.—The Secretary shall enter  
18 into appropriate arrangements with the National  
19 Academy of Sciences to conduct periodic reviews and  
20 assessments of—

21 (A) the programs authorized by this Act  
22 and amendments made by this Act;

23 (B) the measurable cost and performance-  
24 based goals for the programs as established  
25 under section 902, if any; and

1 (C) the progress on meeting the goals.

2 (2) TIMING.—The reviews and assessments  
3 shall be conducted every 5 years or more often as  
4 the Secretary considers necessary.

5 (3) REPORTS.—The Secretary shall submit to  
6 Congress reports describing the results of all the re-  
7 views and assessments.

8 **SEC. 1005. IMPROVED TECHNOLOGY TRANSFER OF ENERGY**  
9 **TECHNOLOGIES.**

10 (a) TECHNOLOGY TRANSFER COORDINATOR.—The  
11 Secretary shall appoint a Technology Transfer Coordi-  
12 nator to be the principal advisor to the Secretary on all  
13 matters relating to technology transfer and commercializa-  
14 tion.

15 (b) QUALIFICATIONS.—The Coordinator shall be an  
16 individual who, by reason of professional background and  
17 experience, is specially qualified to advise the Secretary  
18 on matters pertaining to technology transfer at the De-  
19 partment.

20 (c) DUTIES OF THE COORDINATOR.—The Coordi-  
21 nator shall oversee—

22 (1) the activities of the Technology Transfer  
23 Working Group established under subsection (d);

24 (2) the expenditure of funds allocated for tech-  
25 nology transfer within the Department;

1           (3) the activities of each technology partnership  
2           ombudsman appointed under section 11 of the Tech-  
3           nology Transfer Commercialization Act of 2000 (42  
4           U.S.C. 7261c); and

5           (4) efforts to engage private sector entities, in-  
6           cluding venture capital companies.

7           (d) TECHNOLOGY TRANSFER WORKING GROUP.—  
8           The Secretary shall establish a Technology Transfer  
9           Working Group, which shall consist of representatives of  
10          the National Laboratories and single-purpose research fa-  
11          cilities, to—

12           (1) coordinate technology transfer activities oc-  
13           curring at National Laboratories and single-purpose  
14           research facilities;

15           (2) exchange information about technology  
16           transfer practices, including alternative approaches  
17           to resolution of disputes involving intellectual prop-  
18           erty rights and other technology transfer matters;  
19           and

20           (3) develop and disseminate to the public and  
21           prospective technology partners information about  
22           opportunities and procedures for technology transfer  
23           with the Department, including opportunities and  
24           procedures related to alternative approaches to reso-

1 lution of disputes involving intellectual property  
2 rights and other technology transfer matters.

3 (e) TECHNOLOGY COMMERCIALIZATION FUND.—The  
4 Secretary shall establish an Energy Technology Commer-  
5 cialization Fund, using 0.5 percent of the amount made  
6 available to the Department for each fiscal year, to be  
7 used to provide matching funds with private partners to  
8 promote promising technologies for commercial purposes.

9 (f) TECHNOLOGY TRANSFER RESPONSIBILITY.—  
10 Nothing in this section affects the technology transfer re-  
11 sponsibilities of Federal employees under the Stevenson-  
12 Wydler Technology Innovation Act of 1980 (15 U.S.C.  
13 3701 et seq.).

14 (g) PLANNING AND REPORTING.—

15 (1) IN GENERAL.—Not later than 180 days  
16 after the date of enactment of this Act, the Sec-  
17 retary shall submit to Congress a technology trans-  
18 fer execution plan.

19 (2) UPDATES.—Each year after the submission  
20 of the plan under paragraph (1), the Secretary shall  
21 submit to Congress an updated execution plan and  
22 reports that describe progress toward meeting goals  
23 set forth in the execution plan and the funds ex-  
24 pended under subsection (e).

1 **SEC. 1006. TECHNOLOGY INFRASTRUCTURE PROGRAM.**

2 (a) DEFINITIONS.—In this section:

3 (1) PROGRAM.—The term “Program” means  
4 the Technology Infrastructure Program established  
5 under subsection (b).

6 (2) TECHNOLOGY CLUSTER.—The term “tech-  
7 nology cluster” means a concentration of technology-  
8 related business concerns, institutions of higher edu-  
9 cation, or nonprofit institutions, that reinforce each  
10 other’s performance in the areas of technology devel-  
11 opment through formal or informal relationships.

12 (3) TECHNOLOGY-RELATED BUSINESS CON-  
13 CERN.—The term “technology-related business con-  
14 cern” means a for-profit corporation, company, asso-  
15 ciation, firm, partnership, or small business concern  
16 that—

17 (A) conducts scientific or engineering re-  
18 search;

19 (B) develops new technologies;

20 (C) manufactures products based on new  
21 technologies; or

22 (D) performs technological services.

23 (b) ESTABLISHMENT.—The Secretary shall establish  
24 a Technology Infrastructure Program in accordance with  
25 this section.



1       (c) PURPOSE.—The purpose of the Program shall be  
2 to improve the ability of National Laboratories and single-  
3 purpose research facilities to support departmental mis-  
4 sions by—

5           (1) stimulating the development of technology  
6 clusters that can support departmental missions at  
7 the National Laboratories or single-purpose research  
8 facilities;

9           (2) improving the ability of National Labora-  
10 tories and single-purpose research facilities to lever-  
11 age and benefit from commercial research, tech-  
12 nology, products, processes, and services; and

13          (3) encouraging the exchange of scientific and  
14 technological expertise between—

15           (A) National Laboratories or single-pur-  
16 pose research facilities; and

17           (B) entities that can support departmental  
18 missions at the National Laboratories or single-  
19 purpose research facilities, such as—

20                   (i) institutions of higher education;

21                   (ii) technology-related business con-  
22 cerns;

23                   (iii) nonprofit institutions; and

24                   (iv) agencies of State, tribal, or local  
25 governments.

1 (d) PROJECTS.—The Secretary shall authorize the di-  
2 rector of each National Laboratory or single-purpose re-  
3 search facility to implement the Program at the National  
4 Laboratory or facility through 1 or more projects that  
5 meet the requirements of subsections (e) and (f).

6 (e) PROGRAM REQUIREMENTS.—

7 (1) IN GENERAL.—Each project funded under  
8 this section shall meet the requirements of this sub-  
9 section.

10 (2) ENTITIES.—Each project shall include at  
11 least 1 of each of the following entities:

12 (A) A business.

13 (B) An institution of higher education.

14 (C) A nonprofit institution.

15 (D) An agency of a State, local, or tribal  
16 government.

17 (3) COST-SHARING.—

18 (A) IN GENERAL.—The costs of carrying  
19 out projects under this section shall be shared  
20 in accordance with section 1002.

21 (B) SOURCES.—The calculation of costs  
22 paid by the non-Federal sources for a project  
23 shall include cash, personnel, services, equip-  
24 ment, and other resources expended on the  
25 project after the commencement of the project.

1           (C) RESEARCH AND DEVELOPMENT EX-  
2           PENSES.—Independent research and develop-  
3           ment expenses of Government contractors that  
4           qualify for reimbursement under section  
5           31.205–18(e) of title 48, Code of Federal Regu-  
6           lations, issued pursuant to section 25(c)(1) of  
7           the Office of Federal Procurement Policy Act  
8           (41 U.S.C. 421(c)(1)), may be credited towards  
9           costs paid by non-Federal sources to a project,  
10          if the expenses meet the other requirements of  
11          this section.

12          (4) COMPETITIVE SELECTION.—A project under  
13          this section shall be competitively selected using pro-  
14          cedures determined by the Secretary.

15          (5) ACCOUNTING.—Any participant that re-  
16          ceives funds under this section may use generally ac-  
17          cepted accounting principles for maintaining ac-  
18          counts, books, and records relating to the project.

19          (6) DURATION.—No Federal funds shall be  
20          made available under this section for a construction  
21          project or for any project with a duration of more  
22          than 5 years.

23          (f) SELECTION CRITERIA.—

24                (1) DEPARTMENTAL MISSIONS.—The Secretary  
25          shall allocate funds under this section only if the Di-

1 rector of the National Laboratory or single-purpose  
2 research facility managing the project determines  
3 that the project is likely to improve the ability of the  
4 National Laboratory or single-purpose research facil-  
5 ity to achieve technical success in meeting depart-  
6 mental missions.

7 (2) OTHER CRITERIA.—In selecting a project to  
8 receive Federal funds, the Secretary shall consider—

9 (A) the potential of the project to promote  
10 the development of a commercially sustainable  
11 technology cluster following the period of invest-  
12 ment by the Department, which will derive most  
13 of the demand for its products or services from  
14 the private sector, and which will support de-  
15 partmental missions at the participating Na-  
16 tional Laboratory or single-purpose research fa-  
17 cility;

18 (B) the potential of the project to promote  
19 the use of commercial research, technology,  
20 products, processes, and services by the partici-  
21 pating National Laboratory or single-purpose  
22 research facility to achieve its mission or the  
23 commercial development of technological inno-  
24 vations made at the participating National Lab-  
25 oratory or single-purpose research facility;

1 (C) the extent to which the project involves  
2 a wide variety and number of institutions of  
3 higher education, nonprofit institutions, and  
4 technology-related business concerns that can  
5 support the missions of the participating Na-  
6 tional Laboratory or single-purpose research fa-  
7 cility and that will make substantive contribu-  
8 tions to achieving the goals of the project;

9 (D) the extent to which the project focuses  
10 on promoting the development of technology-re-  
11 lated business concerns that are small busi-  
12 nesses or involves such small businesses sub-  
13 stantively in the project; and

14 (E) such other criteria as the Secretary de-  
15 termines to be appropriate.

16 (g) ALLOCATION.—In allocating funds for projects  
17 approved under this section, the Secretary shall provide—

18 (1) the Federal share of the project costs; and

19 (2) additional funds to the National Laboratory  
20 or single-purpose research facility managing the  
21 project to permit the National Laboratory or single-  
22 purpose research facility to carry out activities relat-  
23 ing to the project, and to coordinate the activities  
24 with the project.

1 (h) REPORT TO CONGRESS.—Not later than July 1,  
2 2008, the Secretary shall submit to Congress a report on  
3 whether the Program should be continued and, if so, how  
4 the program should be managed.

5 (i) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated to the Secretary for ac-  
7 tivities under this section \$10,000,000 for each of fiscal  
8 years 2006 through 2008.

9 **SEC. 1007. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

10 (a) SMALL BUSINESS ADVOCATE.—The Secretary  
11 shall require the Director of each National Laboratory,  
12 and may require the Director of a single-purpose research  
13 facility, to designate a small business advocate to—

14 (1) increase the participation of small business  
15 concerns, including socially and economically dis-  
16 advantaged small business concerns (as defined in  
17 section 8(a)(4) of the Small Business Act (15 U.S.C.  
18 637(a)(4))), in procurement, collaborative research,  
19 technology licensing, and technology transfer activi-  
20 ties conducted by the National Laboratory or single-  
21 purpose research facility;

22 (2) report to the Director of the National Lab-  
23 oratory or single-purpose research facility on the ac-  
24 tual participation of small business concerns in pro-  
25 curement and collaborative research along with rec-

1       ommendations, if appropriate, on how to improve  
2       participation;

3           (3) make available to small business concerns  
4       training, mentoring, and information on how to par-  
5       ticipate in procurement and collaborative research  
6       activities;

7           (4) increase the awareness inside the National  
8       Laboratory or single-purpose research facility of the  
9       capabilities and opportunities presented by small  
10      business concerns; and

11          (5) establish guidelines for the program under  
12      subsection (b) and report on the effectiveness of the  
13      program to the Director of the National Laboratory  
14      or single-purpose research facility.

15      (b) ESTABLISHMENT OF SMALL BUSINESS ASSIST-  
16      ANCE PROGRAM.—The Secretary shall require the Direc-  
17      tor of each National Laboratory, and may require the Di-  
18      rector of a single-purpose research facility, to establish a  
19      program to provide small business concerns with—

20          (1) assistance directed at making the small  
21      business concerns more effective and efficient sub-  
22      contractors or suppliers to the National Laboratory  
23      or single-purpose research facilities; or

24          (2) general technical assistance, the cost of  
25      which shall not exceed \$10,000 per instance of as-

1       sistance, to improve the products or services of the  
2       small business concern.

3       (c) USE OF FUNDS.—None of the funds expended  
4       under subsection (b) may be used for direct grants to  
5       small business concerns.

6       (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
7       authorized to be appropriated to the Secretary for activi-  
8       ties under this section \$5,000,000 for each of fiscal years  
9       2006 through 2008.

10   **SEC. 1008. OUTREACH.**

11       The Secretary shall ensure that each program au-  
12       thorized by this Act or an amendment made by this Act  
13       includes an outreach component to provide information,  
14       as appropriate, to manufacturers, consumers, engineers,  
15       architects, builders, energy service companies, institutions  
16       of higher education, facility planners and managers, State  
17       and local governments, and other entities.

18   **SEC. 1009. RELATIONSHIP TO OTHER LAWS.**

19       Except as otherwise provided in this Act or an  
20       amendment made by this Act, the Secretary shall carry  
21       out the research, development, demonstration, and com-  
22       mercial application programs, projects, and activities au-  
23       thorized by this Act or an amendment made by this Act  
24       in accordance with the applicable provisions of—



1           (1) the Atomic Energy Act of 1954 (42 U.S.C.  
2       2011 et seq.);

3           (2) the Federal Nonnuclear Energy Research  
4       and Development Act of 1974 (42 U.S.C. 5901 et  
5       seq.);

6           (3) the Energy Policy Act of 1992 (42 U.S.C.  
7       13201 et seq.);

8           (4) the Stevenson-Wydler Technology Innova-  
9       tion Act of 1980 (15 U.S.C. 3701 et seq.);

10          (5) chapter 18 of title 35, United States Code  
11       (commonly known as the “Bayh-Dole Act”); and

12          (6) any other Act under which the Secretary is  
13       authorized to carry out the programs, projects, and  
14       activities.

15 **SEC. 1010. IMPROVED COORDINATION AND MANAGEMENT**  
16 **OF CIVILIAN SCIENCE AND TECHNOLOGY**  
17 **PROGRAMS.**

18       (a) EFFECTIVE TOP-LEVEL COORDINATION OF RE-  
19 SEARCH AND DEVELOPMENT PROGRAMS.—Section 202 of  
20 the Department of Energy Organization Act (42 U.S.C.  
21 7132) is amended by striking subsection (b) and inserting  
22 the following:

23       “(b)(1) There shall be in the Department an Under  
24 Secretary for Energy and Science, who shall be appointed

1 by the President, by and with the advice and consent of  
2 the Senate.

3 “(2) The Under Secretary shall be compensated at  
4 the rate provided for level III of the Executive Schedule  
5 under section 5314 of title 5, United States Code.

6 “(3) The Under Secretary for Energy and Science  
7 shall be appointed from among persons who—

8 “(A) have extensive background in scientific or  
9 engineering fields; and

10 “(B) are well qualified to manage the civilian  
11 research and development programs of the Depart-  
12 ment.

13 “(4) The Under Secretary for Energy and Science  
14 shall—

15 “(A) serve as the Science and Technology Advi-  
16 sor to the Secretary;

17 “(B) monitor the research and development  
18 programs of the Department in order to advise the  
19 Secretary with respect to any undesirable duplication  
20 or gaps in the programs;

21 “(C) advise the Secretary with respect to the  
22 well-being and management of the multipurpose lab-  
23 oratories under the jurisdiction of the Department;

24 “(D) advise the Secretary with respect to edu-  
25 cation and training activities required for effective

1 short- and long-term basic and applied research ac-  
2 tivities of the Department;

3 “(E) advise the Secretary with respect to grants  
4 and other forms of financial assistance required for  
5 effective short- and long-term basic and applied re-  
6 search activities of the Department;

7 “(F) bear primary responsibility for energy con-  
8 servation; and

9 “(G) exercise authority and responsibility over  
10 Assistant Secretaries carrying out energy research  
11 and development and energy technology functions  
12 under sections 203 and 209, as well as other ele-  
13 ments of the Department assigned by the Sec-  
14 retary.”.

15 (b) RECONFIGURATION OF POSITION OF DIRECTOR  
16 OF THE OFFICE OF SCIENCE.—

17 (1) IN GENERAL.—Section 209 of the Depart-  
18 ment of Energy Organization Act (41 U.S.C. 7139)  
19 is amended to read as follows:

20 “OFFICE OF SCIENCE

21 “SEC. 209. (a) There shall be within the Department  
22 an Office of Science, to be headed by an Assistant Sec-  
23 retary for Science, who shall be appointed by the Presi-  
24 dent, by and with the advice and consent of the Senate,  
25 and who shall be compensated at the rate provided for

1 level IV of the Executive Schedule under section 5315 of  
2 title 5, United States Code.

3 “(b) The Assistant Secretary for Science shall be in  
4 addition to the Assistant Secretaries provided for under  
5 section 203.

6 “(c) It shall be the duty and responsibility of the As-  
7 sistant Secretary for Science to carry out the fundamental  
8 science and engineering research functions of the Depart-  
9 ment, including the responsibility for policy and manage-  
10 ment of the research, as well as other functions vested in  
11 the Secretary that the Secretary may assign to the Assist-  
12 ant Secretary.”.

13 (2) DIRECTOR OF THE OFFICE OF SCIENCE.—

14 (A) IN GENERAL.—Notwithstanding sec-  
15 tion 3345(b)(1) of title 5, United States Code,  
16 the President may designate the Director of the  
17 Office of Science who served immediately before  
18 the date of enactment of this Act to act in the  
19 office of the Assistant Secretary of Energy for  
20 Science until the office is filled as provided in  
21 section 209 of the Department of Energy Orga-  
22 nization Act (as amended by paragraph (1)).

23 (B) COMPENSATION.—While so acting, the  
24 person shall receive compensation at the rate  
25 provided by section 209(a) of that Act (as

1           amended by paragraph (1)) for the office of As-  
 2           sistant Secretary for Science.

3           (c) ADDITIONAL ASSISTANT SECRETARY POSITION  
 4 TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR EN-  
 5 ERGY ISSUES.—

6           (1) IN GENERAL.—Section 203(a) of the De-  
 7 partment of Energy Organization Act (42 U.S.C.  
 8 7133(a)) is amended in the first sentence by striking  
 9 “There shall be in the Department six Assistant  
 10 Secretaries” and inserting “Except as provided in  
 11 section 209, there shall be in the Department 7 As-  
 12 sistant Secretaries”.

13           (2) ASSISTANT SECRETARY LEVEL.—It is the  
 14 sense of Congress that the leadership for depart-  
 15 mental missions in nuclear energy should be at the  
 16 Assistant Secretary level.

17           (d) TECHNICAL AND CONFORMING AMENDMENTS.—

18           (1) Section 202 of the Department of Energy  
 19 Organization Act (42 U.S.C. 7132) (as amended by  
 20 subsection (b)(1)) is amended by adding at the end  
 21 the following:

22           “(d)(1) There shall be in the Department an Under  
 23 Secretary, who shall be appointed by the President, by and  
 24 with the advice and consent of the Senate, and who shall

1 perform such functions and duties as the Secretary shall  
2 prescribe, consistent with this section.

3 “(2) The Under Secretary shall be compensated at  
4 the rate provided for level III of the Executive Schedule  
5 under section 5314 of title 5, United States Code.

6 “(e)(1) There shall be in the Department a General  
7 Counsel, who shall be appointed by the President, by and  
8 with the advice and consent of the Senate, and who shall  
9 perform such functions and duties as the Secretary shall  
10 prescribe.

11 “(2) The General Counsel shall be compensated at  
12 the rate provided for level IV of the Executive Schedule  
13 under section 5315 of title 5, United States Code.”.

14 (2) Section 5314 of title 5, United States Code,  
15 is amended by striking “Under Secretaries of En-  
16 ergy (2)” and inserting “Under Secretaries of En-  
17 ergy (3)”.

18 (3) Section 5315 of title 5, United States Code,  
19 is amended—

20 (A) by striking “Assistant Secretaries of  
21 Energy (6)” and inserting “Assistant Secre-  
22 taries of Energy (8)”; and

23 (B) by striking “Director, Office of  
24 Science, Department of Energy.”.

1 **SEC. 1011. OTHER TRANSACTIONS AUTHORITY.**

2 Section 646 of the Department of Energy Organiza-  
3 tion Act (42 U.S.C. 7256) is amended by adding at the  
4 end the following:

5 “(g)(1) In addition to other authorities granted to the  
6 Secretary under any other provision of law, the Secretary  
7 may enter into other transactions on such terms as the  
8 Secretary may consider appropriate in furtherance of re-  
9 search, development, or demonstration functions vested in  
10 the Secretary.

11 “(2) The other transactions shall not be subject to  
12 section 9 of the Federal Nonnuclear Energy Research and  
13 Development Act of 1974 (42 U.S.C. 5908).

14 “(3)(A) The Secretary shall ensure that—

15 “(i) to the maximum extent the Secretary de-  
16 termines practicable, no transaction entered into  
17 under paragraph (1) provides for research, develop-  
18 ment, or demonstration that duplicates research, de-  
19 velopment, or demonstration being conducted under  
20 existing projects carried out by the Department;

21 “(ii) to the extent the Secretary determines  
22 practicable, the funds provided by the Federal Gov-  
23 ernment under a transaction authorized by para-  
24 graph (1) do not exceed the total amount provided  
25 by other parties to the transaction; and

1           “(iii) to the extent the Secretary determines  
2           practicable, competitive, merit-based selection proce-  
3           dures shall be used when entering into transactions  
4           under paragraph (1).

5           “(B) A transaction authorized by paragraph (1) may  
6           be used for a research, development, or demonstration  
7           project only if the Secretary determines the use of a stand-  
8           ard contract, grant, or cooperative agreement for the  
9           project is not feasible or appropriate.

10          “(4)(A) The Secretary shall protect from disclosure  
11          (including disclosure under section 552 of title 5, United  
12          States Code) for up to 5 years after the date the informa-  
13          tion is received by the Secretary—

14               “(i) a proposal, proposal abstract, and sup-  
15               porting documents submitted to the Department in  
16               a competitive or noncompetitive process having the  
17               potential for resulting in an award to the party sub-  
18               mitting the information entering into a transaction  
19               under paragraph (1); and

20               “(ii) a business plan and technical information  
21               relating to a transaction authorized by paragraph  
22               (1) submitted to the Department as confidential  
23               business information.

24          “(B) The Secretary may protect from disclosure, for  
25          up to 5 years after the information was developed, any



1 information developed pursuant to a transaction under  
2 paragraph (1) which developed information is of a char-  
3 acter that it would be protected from disclosure under sec-  
4 tion 552(b)(4) of title 5, United States Code, if obtained  
5 from a person other than a Federal agency.

6 “(5)(A) Not later than 90 days after the date of en-  
7 actment of this subsection, the Secretary shall prescribe  
8 guidelines for using other transactions authorized by para-  
9 graph (1).

10 “(B) The guidelines shall be published in the Federal  
11 Register for public comment under rulemaking procedures  
12 of the Department.

13 “(6) The authority of the Secretary under this sub-  
14 section may be delegated only to an officer of the Depart-  
15 ment who is appointed by the President by and with the  
16 advice and consent of the Senate and may not be delegated  
17 to any other person.”.

18 **SEC. 1012. PRIZES FOR ACHIEVEMENT IN GRAND CHAL-**  
19 **LENGES OF SCIENCE AND TECHNOLOGY.**

20 (a) **AUTHORITY.**—The Secretary may carry out a  
21 program to award cash prizes in recognition of break-  
22 through achievements in research, development, dem-  
23 onstration, and commercial application that have the po-  
24 tential for application to the performance of the mission  
25 of the Department.

1 (b) COMPETITION REQUIREMENTS.—The program  
 2 under subsection (a) may include prizes for the achieve-  
 3 ment of goals articulated by the Secretary in a specific  
 4 area through a widely advertised solicitation of submission  
 5 of results for research, development, demonstration, or  
 6 commercial application projects.

7 (c) RELATIONSHIP TO OTHER AUTHORITY.—The  
 8 program under subsection (a) may be carried out in con-  
 9 junction with or in addition to the exercise of any other  
 10 authority of the Secretary to acquire, support, or stimulate  
 11 research, development, demonstration, or commercial ap-  
 12 plication projects.

13 **SEC. 1013. TECHNICAL CORRECTIONS.**

14 (a) COAL RESEARCH AND DEVELOPMENT.—

15 (1) IN GENERAL.—Public Law 86–599 (30  
 16 U.S.C. 661 et seq.) is amended—

17 (A) by striking the first section (30 U.S.C.  
 18 661) and inserting the following:

19 “SECTION 1. (a) This Act may be cited as the ‘Coal  
 20 Research and Development Act of 1960’.

21 “(b) In this Act:

22 “(1) The term ‘research’ means scientific, tech-  
 23 nical, and economic research and the practical appli-  
 24 cation of that research.

1           “(2) The term ‘Secretary’ means the Secretary  
2 of Energy.”;

3           (B) in section 2 (30 U.S.C. 662), by strik-  
4 ing “shall establish within” and all that follows  
5 through “such Office”;

6           (C) by striking sections 3, 4, and 7 (30  
7 U.S.C. 663, 664, 667); and

8           (D) by redesignating sections 5, 6, and 8  
9 (30 U.S.C. 665, 666, 668) as sections 3, 4, and  
10 5, respectively.

11           (2) PATENTS.—Section 210(a)(8) of title 35,  
12 United States Code, is amended by striking “Coal  
13 Research Development Act of 1960” and inserting  
14 “Coal Research and Development Act of 1960”.

15           (b) NONNUCLEAR ENERGY RESEARCH AND DEVEL-  
16 OPMENT.—

17           (1) SHORT TITLE; DEFINITIONS.—Section 1 of  
18 the Federal Nonnuclear Energy Research and Devel-  
19 opment Act of 1974 (42 U.S.C. 5902) is amended  
20 to read as follows:

21           “SHORT TITLE AND DEFINITIONS

22           “SECTION 1. (a) This Act may be cited as the ‘Fed-  
23 eral Nonnuclear Energy Research and Development Act  
24 of 1974’.

25           “(b) In this Act:

1           “(1) The term ‘Department’ means the Depart-  
2           ment of Energy.

3           “(2) The term ‘Secretary’ means the Secretary  
4           of Energy.”.

5           (2) STATEMENT OF POLICY.—Section 3(b) of  
6           the Federal Nonnuclear Energy Research and Devel-  
7           opment Act of 1974 (42 U.S.C. 5902(b)) is amend-  
8           ed—

9                   (A) in paragraph (1), by striking “Energy  
10           Research and Development Administration”  
11           and inserting “Department”;

12                   (B) in paragraph (2), by striking “Admin-  
13           istrator of the Energy Research and Develop-  
14           ment Administration (hereinafter in this Act re-  
15           ferred to as the ‘Administrator’)” and inserting  
16           “Secretary”; and

17                   (C) in paragraph (3)—

18                           (i) by striking “Administrator” and  
19                           inserting “Secretary”; and

20                           (ii) by inserting “Demonstration”  
21                           after “Cooling”.

22           (3) DUTIES AND AUTHORITIES.—Section 4 of  
23           the Federal Nonnuclear Energy Research and Devel-  
24           opment Act of 1974 (42 U.S.C. 5903) is amended—

1 (A) by striking the section heading and in-  
 2 serting the following:

3 “DUTIES AND AUTHORITIES OF THE SECRETARY”;

4 and

5 (B) in the matter preceding subsection (a),  
 6 by striking “Administrator” and inserting “Sec-  
 7 retary”.

8 (4) COMPREHENSIVE PLANNING AND PROGRAM-  
 9 MING.—Section 6 of the Federal Nonnuclear Energy  
 10 Research and Development Act of 1974 (42 U.S.C.  
 11 5905) is amended—

12 (A) by striking “Administrator” each place  
 13 it appears and inserting “Secretary”; and

14 (B) in subsection (b)(3)—

15 (i) in subparagraph (I), by inserting  
 16 “Demonstration” after “Cooling”; and

17 (ii) in subparagraph (L), by inserting  
 18 “Energy” after “Solar”.

19 (5) FORMS OF FEDERAL ASSISTANCE.—Section  
 20 7 of the Federal Nonnuclear Energy Research and  
 21 Development Act of 1974 (42 U.S.C. 5906) is  
 22 amended—

23 (A) by striking “Administrator” each place  
 24 it appears and inserting “Secretary”; and

25 (B) in subsection (a)(4), by striking “of  
 26 the section”.

1           (6) DEMONSTRATIONS.—Section 8 of the Fed-  
2       eral Nonnuclear Energy Research and Development  
3       Act of 1974 (42 U.S.C. 5907) is amended—

4           (A) in subsections (a) through (c), by  
5       striking “Administrator” each place it appears  
6       and inserting “Secretary”;

7           (B) in subsection (d)—

8           (i) in the first sentence of paragraph  
9       (1), by inserting “of the Energy Research  
10      and Development Administration” after  
11      “Administrator”; and

12          (ii) in paragraph (3), by striking “Ad-  
13      ministrator” and inserting “Secretary”;  
14      and

15          (C) in subsection (f)—

16          (i) by striking “Administrator” each  
17      place it appears and inserting “Secretary”;  
18      and

19          (ii) in the proviso of the first sen-  
20      tence, by striking “Administrator’s” and  
21      inserting “Secretary’s”.

22       (7) PATENT POLICY.—Section 9 of the Federal  
23      Nonnuclear Energy Research and Development Act  
24      of 1974 (42 U.S.C. 5908) is amended—

1 (A) by striking “Administration” each  
2 place it appears and inserting “Department”;

3 (B) by striking “Administrator” each place  
4 it appears and inserting “Secretary”; and

5 (C) in subsection (c)(3), by striking “Ad-  
6 ministration’s” and inserting “Department’s”.

7 (8) ACQUISITION OF ESSENTIAL MATERIALS.—  
8 Section 12 of the Federal Nonnuclear Energy Re-  
9 search and Development Act of 1974 (42 U.S.C.  
10 5911) is amended by striking subsection (b) and in-  
11 serting the following:

12 “(b) A rule or order under subsection (a) shall be  
13 considered to be a major rule subject to chapter 8 of title  
14 5, United States Code.”.

15 (9) WATER RESOURCE EVALUATION.—Section  
16 13 of the Federal Nonnuclear Energy Research and  
17 Development Act of 1974 (42 U.S.C. 5912) is  
18 amended by striking “Administrator” each place it  
19 appears and inserting “Secretary”.

20 (10) AUTHORIZATION OF APPROPRIATIONS.—  
21 Section 16 of the Federal Nonnuclear Energy Re-  
22 search and Development Act of 1974 (42 U.S.C.  
23 5915) is amended—

24 (A) by striking the section heading and in-  
25 serting the following:

1 “AUTHORIZATION OF APPROPRIATIONS”;

2 (B) by striking “(a) There may be appro-  
3 priated to the Administrator” and inserting  
4 “There may be appropriated to the Secretary”;  
5 and

6 (C) by striking subsections (b) and (c).

7 (11) CENTRAL SOURCE OF NONNUCLEAR EN-  
8 ERGY INFORMATION.—Section 17 of the Federal  
9 Nonnuclear Energy Research and Development Act  
10 of 1974 (42 U.S.C. 5916) is amended—

11 (A) by striking “Administrator” each place  
12 it appears and inserting “Secretary”;

13 (B) in the first sentence, by striking “Ad-  
14 ministrator’s”;

15 (C) in the second sentence, by striking  
16 “he” and inserting “the Secretary”;

17 (D) in the third sentence—

18 (i) in paragraph (2) of the first pro-  
19 viso, by striking “section 1905 or title 18”  
20 and inserting “section 1905 of title 18”;  
21 and

22 (ii) in subparagraph (B) of the second  
23 proviso—

24 (I) by striking “the Federal En-  
25 ergy Administration,”;



1 (II) by striking “the Federal  
2 Power Commission,” and inserting  
3 “the Federal Energy Regulatory Com-  
4 mission”; and

5 (III) by striking “General Ac-  
6 counting Office” and inserting “Gov-  
7 ernment Accountability Office”; and

8 (E) in the last sentence, by inserting “or  
9 ranking minority member” after “chairman”.

10 (12) ENERGY INFORMATION, LOAN GUARAN-  
11 TEES, AND FINANCIAL SUPPORT.—Sections 18  
12 through 20 of the Federal Nonnuclear Energy Re-  
13 search and Development Act of 1974 (42 U.S.C.  
14 5917 through 5920) are repealed.

15 (c) STEVENSON-WYDLER TECHNOLOGY INNOVATION  
16 ACT OF 1980.—Section 20 of the Stevenson-Wydler Tech-  
17 nology Innovation Act of 1980 (15 U.S.C. 3712) is  
18 amended by striking “and the National Science Founda-  
19 tion” and inserting “, the Secretary of Energy, and the  
20 Director of the National Science Foundation”.

## 21 **TITLE XI—PERSONNEL AND** 22 **TRAINING**

### 23 **SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP** 24 **GRANTS.**

25 (a) DEFINITIONS.—In this section:

1           (1) ENERGY TECHNOLOGY INDUSTRY.—The  
2       term “energy technology industry” includes—

3                   (A) a renewable energy industry;

4                   (B) a company that develops or commer-  
5       cializes a device to increase energy efficiency;

6                   (C) the oil and gas industry;

7                   (D) the nuclear power industry;

8                   (E) the coal industry;

9                   (F) the electric utility industry; and

10                  (G) any other industrial sector, as the Sec-  
11       retary determines to be appropriate.

12           (2) SKILLED TECHNICAL PERSONNEL.—The  
13       term “skilled technical personnel” means—

14                   (A) journey- and apprentice-level workers  
15       who are enrolled in, or have completed, a feder-  
16       ally-recognized or State-recognized apprentice-  
17       ship program; and

18                   (B) other skilled workers in energy tech-  
19       nology industries, as determined by the Sec-  
20       retary.

21       (b) WORKFORCE TRENDS.—

22           (1) MONITORING.—The Secretary, in consulta-  
23       tion with, and using data collected by, the Secretary  
24       of Labor, shall monitor trends in the workforce of—

1 (A) skilled technical personnel that support  
2 energy technology industries; and

3 (B) electric power and transmission engi-  
4 neers.

5 (2) REPORT.—As soon as practicable after the  
6 date on which the Secretary identifies or predicts a  
7 significant national shortage of skilled technical per-  
8 sonnel in 1 or more energy technology industries,  
9 the Secretary shall submit to Congress a report de-  
10 scribing the shortage.

11 (c) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL  
12 PERSONNEL.—The Secretary, in consultation with the  
13 Secretary of Labor, may establish programs in the appro-  
14 priate offices of the Department under which the Sec-  
15 retary provides grants to enhance training (including dis-  
16 tance learning) for any workforce category for which a  
17 shortage is identified or predicted under subsection (b)(2).

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
19 authorized to be appropriated to carry out this section  
20 \$20,000,000 for each of fiscal years 2006 through 2008.

21 **SEC. 1102. ENERGY RESEARCH FELLOWSHIPS.**

22 (a) POSTDOCTORAL FELLOWSHIP PROGRAM.—The  
23 Secretary shall establish a program under which the Sec-  
24 retary provides fellowships to encourage outstanding  
25 young scientists and engineers to pursue postdoctoral re-

1 search appointments in energy research and development  
2 at institutions of higher education of their choice.

3 (b) SENIOR RESEARCH FELLOWSHIPS.—

4 (1) IN GENERAL.—The Secretary shall establish  
5 a program under which the Secretary provides fel-  
6 lowships to allow outstanding senior researchers and  
7 their research groups in energy research and devel-  
8 opment to explore research and development topics  
9 of their choosing for a period of not less than 3  
10 years to be determined by the Secretary.

11 (2) CONSIDERATION.—In providing a fellowship  
12 under the program described in paragraph (1), the  
13 Secretary shall consider—

14 (A) the past scientific or technical accom-  
15 plishment of a senior researcher; and

16 (B) the potential for continued accomplish-  
17 ment by the researcher during the period of the  
18 fellowship.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
20 authorized to be appropriated to carry out this section  
21 \$40,000,000 for each of fiscal years 2006 through 2008.

22 **SEC. 1103. EDUCATIONAL PROGRAMS IN SCIENCE AND**  
23 **MATHEMATICS.**

24 (a) AUTHORIZED EDUCATION ACTIVITIES.—Section  
25 3165 of the Department of Energy Science Education En-

1 hancement Act (42 U.S.C. 7381b) is amended by adding  
2 at the end:

3           “(14) Support competitive events for students,  
4           under supervision of teachers, designed to encourage  
5           student interest and knowledge in science and math-  
6           ematics.

7           “(15) Support competitively-awarded science re-  
8           source centers at National Laboratories to promote  
9           professional development of mathematics teachers  
10          and science teachers who teach in grades from kin-  
11          dergarten through grade 12.

12          “(16) Support summer internships at National  
13          Laboratories for mathematics teachers and science  
14          teachers who teach in grades from kindergarten  
15          through grade 12.”.

16          (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
17 3168 of the Department of Energy Science Education En-  
18 hancement Act (42 U.S.C. 7381e) is amended by inserting  
19 before the period at the end the following: “and  
20 \$40,000,000 for each of fiscal years 2006 through 2008.”.

21 **SEC. 1104. TRAINING GUIDELINES FOR ELECTRIC ENERGY**  
22 **INDUSTRY PERSONNEL.**

23          (a) IN GENERAL.—The Secretary of Labor, in con-  
24 sultation with the Secretary and in conjunction with the  
25 electric industry and recognized employee representatives,

1 shall develop model personnel training guidelines to sup-  
2 port the reliability and safety of the electric system.

3 (b) REQUIREMENTS.—The training guidelines under  
4 subsection (a) shall, at a minimum—

5 (1) include training requirements for workers  
6 engaged in the construction, operation, inspection, or  
7 maintenance of electric generation, transmission, or  
8 distribution systems, including requirements relating  
9 to—

10 (A) competency;

11 (B) certification; and

12 (C) assessment, including—

13 (i) initial and continuous evaluation of  
14 workers;

15 (ii) recertification procedures; and

16 (iii) methods for examining or testing  
17 the qualification of an individual who per-  
18 forms a covered task; and

19 (2) consolidate training guidelines in existence  
20 on the date on which the guidelines under subsection  
21 (a) are developed relating to the construction, oper-  
22 ation, maintenance, and inspection of electric gen-  
23 eration, transmission, and distribution facilities,  
24 such as guidelines established by the National Elec-

1       tric Safety Code and other industry consensus  
2       standards.

3   **SEC. 1105. NATIONAL CENTER FOR ENERGY MANAGEMENT**  
4                   **AND BUILDING TECHNOLOGIES.**

5       The Secretary shall support the ongoing activities of  
6   the National Center for Energy Management and Building  
7   Technologies to carry out research, education, and train-  
8   ing activities to facilitate the improvement of energy effi-  
9   ciency, indoor environmental quality, and security of in-  
10   dustrial, commercial, residential, and public buildings.

11   **SEC. 1106. IMPROVED ACCESS TO ENERGY-RELATED SCI-**  
12                   **ENTIFIC AND TECHNICAL CAREERS.**

13       (a) SCIENCE EDUCATION PROGRAMS.—Section 3164  
14   of the Department of Energy Science Education Enhance-  
15   ment Act (42 U.S.C. 7381a) is amended by adding at the  
16   end the following:

17       “(c) PROGRAMS FOR STUDENTS FROM UNDER-REP-  
18   resented GROUPS.—In carrying out a program under  
19   subsection (a), the Secretary shall give priority to activi-  
20   ties that are designed to encourage students from under-  
21   represented groups to pursue scientific and technical ca-  
22   reers.”.

23       (b) PARTNERSHIPS WITH HISTORICALLY BLACK  
24   COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING IN-  
25   STITUTIONS, AND TRIBAL COLLEGES.—The Department

1 of Energy Science Education Enhancement Act (42  
2 U.S.C. 7381 et seq.) is amended—

3 (1) by redesignating sections 3167 and 3168 as  
4 sections 3168 and 3169, respectively; and

5 (2) by inserting after section 3166 the fol-  
6 lowing:

7 **“SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK**  
8 **COLLEGES AND UNIVERSITIES, HISPANIC-**  
9 **SERVING INSTITUTIONS, AND TRIBAL COL-**  
10 **LEGES.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) HISPANIC-SERVING INSTITUTION.—The  
13 term ‘Hispanic-serving institution’ has the meaning  
14 given the term in section 502(a) of the Higher Edu-  
15 cation Act of 1965 (20 U.S.C. 1101a(a)).

16 “(2) HISTORICALLY BLACK COLLEGE OR UNI-  
17 VERSITY.—The term ‘historically Black college or  
18 university’ has the meaning given the term ‘part B  
19 institution’ in section 322 of the Higher Education  
20 Act of 1965 (20 U.S.C. 1061).

21 “(3) NATIONAL LABORATORY.—The term ‘Na-  
22 tional Laboratory’ has the meaning given the term  
23 in section 2 of the Energy Policy Act of 2005.

24 “(4) SCIENCE FACILITY.—The term ‘science fa-  
25 cility’ has the meaning given the term ‘single-pur-



1       pose research facility’ in section 903 of the Energy  
2       Policy Act of 2005.

3               “(5) TRIBAL COLLEGE.—The term ‘tribal col-  
4       lege’ has the meaning given the term ‘tribally con-  
5       trolled college or university’ in section 2(a) of the  
6       Tribally Controlled College Assistance Act of 1978  
7       (25 U.S.C. 1801(a)).

8               “(b) EDUCATION PARTNERSHIP.—The Secretary  
9       shall require the director of each National Laboratory, and  
10       may require the head of any science facility, to increase  
11       the participation of historically Black colleges or univer-  
12       sities, Hispanic-serving institutions, or tribal colleges in  
13       any activity that increases the capacity of the historically  
14       Black colleges or universities, Hispanic-serving institu-  
15       tions, or tribal colleges to train personnel in science or  
16       engineering.

17               “(c) ACTIVITIES.—An activity described in subsection  
18       (b) includes—

19               “(1) collaborative research;

20               “(2) equipment transfer;

21               “(3) training activities carried out at a National  
22       Laboratory or science facility; and

23               “(4) mentoring activities carried out at a Na-  
24       tional Laboratory or science facility.

1       “(d) REPORT.—Not later than 2 years after the date  
2 of enactment of this subsection, the Secretary shall submit  
3 to Congress a report describing the activities carried out  
4 under this section.”.

5   **SEC. 1107. NATIONAL POWER PLANT OPERATIONS TECH-**  
6                   **NOLOGY AND EDUCATION CENTER.**

7       (a) ESTABLISHMENT.—The Secretary shall support  
8 the establishment of a National Power Plant Operations  
9 Technology and Education Center (referred to in this sec-  
10 tion as the “Center”), to address the need for training  
11 and educating certified operators for electric power gen-  
12 eration plants.

13       (b) LOCATION OF CENTER.—The Secretary shall  
14 support the establishment of the Center at an institution  
15 of higher education that has—

16               (1) expertise in power plant technology and op-  
17 eration; and

18               (2) the ability to provide onsite and Internet-  
19 based training.

20       (c) TRAINING AND CONTINUING EDUCATION.—

21               (1) IN GENERAL.—The Center shall provide  
22 training and continuing education relating to electric  
23 power generation plant technologies and operations.

1           (2) LOCATION.—The Center shall carry out  
 2       training and education activities under paragraph  
 3       (1)—

4                       (A) at the Center; and

5                       (B) through Internet-based information  
 6       technologies that allow for learning at a remote  
 7       site.

## 8           **TITLE XII—ELECTRICITY**

### 9       **SEC. 1201. SHORT TITLE.**

10       This title may be cited as the “Electricity Moderniza-  
 11   tion Act of 2005”.

## 12       **Subtitle A—Reliability Standards**

### 13       **SEC. 1211. ELECTRIC RELIABILITY STANDARDS.**

14       (a) IN GENERAL.—Part II of the Federal Power Act  
 15   (16 U.S.C 824 et seq.) is amended by adding at the end  
 16   the following:

#### 17       **“SEC. 215. ELECTRIC RELIABILITY.**

18       “(a) DEFINITIONS.—In this section:

19               “(1)(A) The term ‘bulk-power system’ means—

20                       “(i) facilities and control systems necessary  
 21       for operating an interconnected electric energy  
 22       transmission network (or any portion of such a  
 23       network); and

1           “(ii) electric energy from generation facili-  
2           ties needed to maintain transmission system re-  
3           liability.

4           “(B) The term ‘bulk-power system’ does not in-  
5           clude facilities used in the local distribution of elec-  
6           tric energy.

7           “(2) The terms ‘Electric Reliability Organiza-  
8           tion’ and ‘ERO’ mean the organization certified by  
9           the Commission under subsection (c) the purpose of  
10          which is to establish and enforce reliability stand-  
11          ards for the bulk-power system, subject to review by  
12          the Commission.

13          “(3)(A) The term ‘reliability standard’ means a  
14          requirement, approved by the Commission under this  
15          section, to provide for reliable operation of the bulk-  
16          power system.

17          “(B) The term ‘reliability standard’ includes re-  
18          quirements for the operation of existing bulk-power  
19          system components and the design of planned addi-  
20          tions or modifications to those components to the ex-  
21          tent necessary to provide for reliable operation of the  
22          bulk-power system, except that the term does not in-  
23          clude any requirement to enlarge those components  
24          or to construct new transmission capacity or genera-  
25          tion capacity.

1           “(4) The term ‘reliable operation’ means oper-  
2           ating the components of the bulk-power system with-  
3           in equipment and electric system thermal, voltage,  
4           and stability limits so that instability, uncontrolled  
5           separation, or cascading failures of the system will  
6           not occur as a result of a sudden disturbance or un-  
7           anticipated failure of system components.

8           “(5) The term ‘interconnection’ means a geo-  
9           graphic area in which the operation of bulk-power  
10          system components is synchronized such that the  
11          failure of 1 or more of the components may ad-  
12          versely affect the ability of the operators of other  
13          components within the system to maintain reliable  
14          operation of the portion of the system within their  
15          control.

16          “(6) The term ‘regional entity’ means an entity  
17          having enforcement authority pursuant to subsection  
18          (e)(4).

19          “(b) JURISDICTION AND APPLICABILITY.—(1) The  
20          Commission shall have jurisdiction, within the United  
21          States, over the ERO certified by the Commission under  
22          subsection (c), any regional entities, and all users, owners  
23          and operators of the bulk-power system (including the en-  
24          tities described in section 201(f)), for purposes of approv-

1 ing reliability standards established under this section and  
 2 enforcing compliance with this section.

3 “(2) All users, owners, and operators of the bulk-  
 4 power system shall comply with reliability standards that  
 5 take effect under this section.

6 “(3) The Commission shall issue a final rule to imple-  
 7 ment the requirements of this section not later than 180  
 8 days after the date of enactment of this section.

9 “(c) CERTIFICATION.—(1) Following the issuance of  
 10 a Commission rule under subsection (b)(3), any person  
 11 may submit an application to the Commission for certifi-  
 12 cation as the Electric Reliability Organization.

13 “(2) The Commission may certify 1 such ERO if the  
 14 Commission determines that the ERO—

15 “(A) has the ability to develop and enforce, sub-  
 16 ject to subsection (e)(2), reliability standards that  
 17 provide for an adequate level of reliability of the  
 18 bulk-power system; and

19 “(B) has established rules that—

20 “(i) ensure the independence of the ERO  
 21 from the users and owners and operators of the  
 22 bulk-power system, while ensuring fair stake-  
 23 holder representation in the selection of the di-  
 24 rectors of the ERO and balanced decision-

1 making in any ERO committee or subordinate  
2 organizational structure;

3 “(ii) allocate equitably reasonable dues,  
4 fees, and other charges among end users for all  
5 activities under this section;

6 “(iii) provide fair and impartial procedures  
7 for enforcement of reliability standards through  
8 the imposition of penalties in accordance with  
9 subsection (e) (including limitations on activi-  
10 ties, functions, or operations, or other appro-  
11 priate sanctions);

12 “(iv) provide for reasonable notice and op-  
13 portunity for public comment, due process,  
14 openness, and balance of interests in developing  
15 reliability standards and otherwise exercising  
16 the duties of the ERO; and

17 “(v) provide for taking, after certification,  
18 appropriate steps to gain recognition in Canada  
19 and Mexico.

20 “(d) RELIABILITY STANDARDS.—(1) The ERO shall  
21 file each reliability standard or modification to a reliability  
22 standard that the ERO proposes to be made effective  
23 under this section with the Commission.

24 “(2)(A) The Commission may approve, by rule or  
25 order, a proposed reliability standard or modification to

1 a reliability standard if the Commission determines that  
2 the standard is just, reasonable, not unduly discriminatory  
3 or preferential, and in the public interest.

4 “(B) The Commission—

5 “(i) shall give due weight to the technical exper-  
6 tise of the ERO with respect to the content of a pro-  
7 posed standard or modification to a reliability stand-  
8 ard and to the technical expertise of a regional enti-  
9 ty organized on an interconnection-wide basis with  
10 respect to a reliability standard to be applicable  
11 within that interconnection; but

12 “(ii) shall not defer with respect to the effect of  
13 a standard on competition.

14 “(C) A proposed standard or modification shall take  
15 effect on approval by the Commission.

16 “(3) The ERO shall rebuttably presume that a pro-  
17 posal from a regional entity organized on an interconnec-  
18 tion-wide basis for a reliability standard or modification  
19 to a reliability standard to be applicable on an interconnec-  
20 tion-wide basis is just, reasonable, not unduly discrimina-  
21 tory or preferential, and in the public interest.

22 “(4) The Commission shall remand to the ERO for  
23 further consideration a proposed reliability standard or a  
24 modification to a reliability standard that the Commission  
25 disapproves in whole or in part.



1       “(5) The Commission, on a motion of the Commis-  
2 sion or on complaint, may order the ERO to submit to  
3 the Commission a proposed reliability standard or a modi-  
4 fication to a reliability standard that addresses a specific  
5 matter if the Commission considers such a new or modi-  
6 fied reliability standard appropriate to carry out this sec-  
7 tion.

8       “(6)(A) The final rule adopted under subsection  
9 (b)(2) shall include fair processes for the identification  
10 and timely resolution of any conflict between a reliability  
11 standard and any function, rule, order, tariff, rate sched-  
12 ule, or agreement accepted, approved, or ordered by the  
13 Commission applicable to a transmission organization.

14       “(B) The transmission organization shall continue to  
15 comply with such function, rule, order, tariff, rate sched-  
16 ule or agreement accepted approved, or ordered by the  
17 Commission until—

18               “(i) the Commission finds a conflict exists be-  
19 tween a reliability standard and any such provision;

20               “(ii) the Commission orders a change to the  
21 provision pursuant to section 206; and

22               “(iii) the ordered change becomes effective  
23 under this part.

24       “(C) If the Commission determines that a reliability  
25 standard needs to be changed as a result of such a con-

1 flict, the Commission shall order the ERO to develop and  
2 file with the Commission a modified reliability standard  
3 under paragraph (4) or (5).

4 “(e) ENFORCEMENT.—(1) Subject to paragraph (2),  
5 the ERO may impose a penalty on a user or owner or  
6 operator of the bulk-power system for a violation of a reli-  
7 ability standard approved by the Commission under sub-  
8 section (d) if the ERO, after notice and an opportunity  
9 for a hearing—

10 “(A) finds that the user or owner or operator  
11 has violated a reliability standard approved by the  
12 Commission under subsection (d); and

13 “(B) files notice and the record of the pro-  
14 ceeding with the Commission.

15 “(2)(A) A penalty imposed under paragraph (1) may  
16 take effect not earlier than the day that is 31 days after  
17 the date on which the ERO files with the Commission no-  
18 tice of the penalty and the record of proceedings.

19 “(B) The penalty shall be subject to review by the  
20 Commission on—

21 “(i) a motion by the Commission; or

22 “(ii) application by the user, owner or operator  
23 that is the subject of the penalty filed not later than  
24 30 days after the date on which the notice is filed  
25 with the Commission.

1       “(C) Application to the Commission for review, or the  
2 initiation of review by the Commission on a motion of the  
3 Commission, shall not operate as a stay of the penalty un-  
4 less the Commission orders otherwise on a motion of the  
5 Commission or on application by the user, owner or oper-  
6 ator that is the subject of the penalty.

7       “(D) In any proceeding to review a penalty imposed  
8 under paragraph (1), the Commission, after notice and op-  
9 portunity for hearing (which hearing may consist solely  
10 of the record before the ERO and opportunity for the  
11 presentation of supporting reasons to affirm, modify, or  
12 set aside the penalty), shall by order—

13               “(i) affirm, set aside, reinstate, or modify the  
14 penalty; and

15               “(ii) if appropriate, remand to the ERO for fur-  
16 ther proceedings.

17       “(E) The Commission shall implement expedited pro-  
18 cedures for the hearings described in subparagraph (D).

19       “(3) On a motion of the Commission or on complaint,  
20 the Commission may order compliance with a reliability  
21 standard and may impose a penalty against a user or  
22 owner or operator of the bulk-power system if the Com-  
23 mission finds, after notice and opportunity for a hearing,  
24 that the user or owner or operator of the bulk-power sys-  
25 tem has engaged or is about to engage in any act or prac-

1 tice that constitutes or will constitute a violation of a reli-  
2 ability standard.

3 “(4)(A) The Commission shall issue regulations au-  
4 thorizing the ERO to enter into an agreement to delegate  
5 authority to a regional entity for the purpose of proposing  
6 reliability standards to the ERO and enforcing reliability  
7 standards under paragraph (1) if—

8 “(i) the regional entity is governed by—

9 “(I) an independent board;

10 “(II) a balanced stakeholder board; or

11 “(III) a combination independent and bal-  
12 anced stakeholder board;

13 “(ii) the regional entity otherwise meets the re-  
14 quirements of paragraphs (1) and (2) of subsection  
15 (c); and

16 “(iii) the agreement promotes effective and effi-  
17 cient administration of bulk-power system reliability.

18 “(B) The Commission may modify a delegation under  
19 this paragraph.

20 “(C) The ERO and the Commission shall rebuttably  
21 presume that a proposal for delegation to a regional entity  
22 organized on an interconnection-wide basis promotes effec-  
23 tive and efficient administration of bulk-power system reli-  
24 ability and should be approved.

1       “(D) The regulation issued under this paragraph may  
2 provide that the Commission may assign the authority of  
3 the ERO to enforce reliability standards under paragraph  
4 (1) directly to a regional entity in accordance with this  
5 paragraph.

6       “(5) The Commission may take such action as is nec-  
7 essary or appropriate against the ERO or a regional entity  
8 to ensure compliance with a reliability standard or any  
9 Commission order affecting the ERO or a regional entity.

10       “(6) Any penalty imposed under this section shall—

11               “(A) bear a reasonable relation to the serious-  
12 ness of the violation; and

13               “(B) take into consideration the efforts of the  
14 user, owner, or operator to remedy the violation in  
15 a timely manner.

16       “(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZA-  
17 TION RULES.—(1) The Electric Reliability Organization  
18 shall file with the Commission for approval any proposed  
19 rule or proposed rule change, accompanied by an expla-  
20 nation of the basis and purpose of the rule and proposed  
21 rule change.

22       “(2) The Commission, upon a motion of the Commis-  
23 sion or upon complaint, may propose a change to the rules  
24 of the ERO.

1       “(3) A proposed rule or proposed rule change shall  
2 take effect upon a finding by the Commission, after notice  
3 and opportunity for comment, that the change is just, rea-  
4 sonable, and not unduly discriminatory or preferential, is  
5 in the public interest, and meets the requirements of sub-  
6 section (c).

7       “(g) RELIABILITY REPORTS.—The ERO shall con-  
8 duct periodic assessments of the reliability and adequacy  
9 of the bulk-power system in North America.

10       “(h) COORDINATION WITH CANADA AND MEXICO.—  
11 The President is urged to negotiate international agree-  
12 ments with the governments of Canada and Mexico to pro-  
13 vide for effective compliance with reliability standards and  
14 the effectiveness of the ERO in the United States and  
15 Canada or Mexico.

16       “(i) SAVINGS PROVISIONS.—(1) The ERO may de-  
17 velop and enforce compliance with reliability standards for  
18 only the bulk-power system.

19       “(2) Nothing in this section authorizes the ERO or  
20 the Commission to order the construction of additional  
21 generation or transmission capacity or to set and enforce  
22 compliance with standards for adequacy or safety of elec-  
23 tric facilities or services.

24       “(3) Nothing in this section preempts any authority  
25 of any State to take action to ensure the safety, adequacy,

1 and reliability of electric service within that State, as long  
2 as the action is not inconsistent with any reliability stand-  
3 ard.

4 “(4) Not later than 90 days after the date of applica-  
5 tion of the Electric Reliability Organization or other af-  
6 fected party, and after notice and opportunity for com-  
7 ment, the Commission shall issue a final order deter-  
8 mining whether a State action is inconsistent with a reli-  
9 ability standard, taking into consideration any rec-  
10 ommendation of the ERO.

11 “(5) The Commission, after consultation with the  
12 ERO and the State taking action, may stay the effective-  
13 ness of any State action, pending the issuance by the Com-  
14 mission of a final order.

15 “(j) REGIONAL ADVISORY BODIES.—(1) The Com-  
16 mission shall establish a regional advisory body on the pe-  
17 tition of at least  $\frac{2}{3}$  of the States within a region that have  
18 more than  $\frac{1}{2}$  of the electric load of the States served with-  
19 in the region.

20 “(2) A regional advisory body—

21 “(A) shall be composed of 1 member from each  
22 participating State in the region, appointed by the  
23 Governor of the State; and

24 “(B) may include representatives of agencies,  
25 States, and provinces outside the United States.

1       “(3) A regional advisory body may provide advice to  
2 the Electric Reliability Organization, a regional entity, or  
3 the Commission regarding—

4               “(A) the governance of an existing or proposed  
5 regional entity within the same region;

6               “(B) whether a standard proposed to apply  
7 within the region is just, reasonable, not unduly dis-  
8 criminatory or preferential, and in the public inter-  
9 est;

10              “(C) whether fees proposed to be assessed with-  
11 in the region are just, reasonable, not unduly dis-  
12 criminatory or preferential, and in the public inter-  
13 est; and

14              “(D) any other responsibilities requested by the  
15 Commission.

16       “(4) The Commission may give deference to the ad-  
17 vice of a regional advisory body if that body is organized  
18 on an interconnection-wide basis.

19       “(k) ALASKA AND HAWAII.—This section does not  
20 apply to Alaska or Hawaii.”.

21       (b) STATUS OF ERO.—The Electric Reliability Orga-  
22 nization certified by the Commission under section 215(c)  
23 of the Federal Power Act (as added by subsection (a))  
24 and any regional entity delegated enforcement authority  
25 pursuant to section 215(e)(4) of that Act (as so added)



1 are not departments, agencies, or instrumentalities of the  
 2 Federal Government.

## 3                   **Subtitle B—Transmission** 4                   **Infrastructure Modernization**

### 5   **SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANS-** 6                   **MISSION FACILITIES.**

7           (a) IN GENERAL.—Part II of the Federal Power Act  
 8 (16 U.S.C. 824 et seq.) (as amended by section 1211(a))  
 9 is amended by adding at the end the following:

### 10   **“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANS-** 11                   **MISSION FACILITIES.**

12           “(a) DESIGNATION OF NATIONAL INTEREST ELEC-  
 13 TRIC TRANSMISSION CORRIDORS.—(1) Not later than 1  
 14 year after the date of enactment of this section and every  
 15 3 years thereafter, the Secretary of Energy (referred to  
 16 in this section as the ‘Secretary’), in consultation with af-  
 17 fected States, shall conduct a study of electric trans-  
 18 mission congestion.

19           “(2) After considering alternatives and recommenda-  
 20 tions from interested parties (including an opportunity for  
 21 comment from affected States), the Secretary shall issue  
 22 a report, based on the study, which may designate any  
 23 geographic area experiencing electric energy transmission  
 24 capacity constraints or congestion that adversely affects

1 consumers as a national interest electric transmission cor-  
2 ridor.

3 “(3) The Secretary shall conduct the study and issue  
4 the report in consultation with any appropriate regional  
5 entity referred to in section 215.

6 “(4) In determining whether to designate a national  
7 interest electric transmission corridor under paragraph  
8 (2), the Secretary may consider whether—

9 “(A) the economic vitality and development of  
10 the corridor, or the end markets served by the cor-  
11 ridor, may be constrained by lack of adequate or  
12 reasonably priced electricity;

13 “(B)(i) economic growth in the corridor, or the  
14 end markets served by the corridor, may be jeopard-  
15 ized by reliance on limited sources of energy; and

16 “(ii) a diversification of supply is warranted;

17 “(C) the energy independence of the United  
18 States would be served by the designation;

19 “(D) the designation would be in the interest of  
20 national energy policy; and

21 “(E) the designation would enhance national  
22 defense and homeland security.

23 “(b) CONSTRUCTION PERMIT.—Except as provided  
24 in subsection (i), the Commission may, after notice and  
25 an opportunity for hearing, issue 1 or more permits for

1 the construction or modification of electric transmission  
2 facilities in a national interest electric transmission cor-  
3 ridor designated by the Secretary under subsection (a) if  
4 the Commission finds that—

5 “(1)(A) a State in which the transmission fa-  
6 cilities are to be constructed or modified does not  
7 have authority to—

8 “(i) approve the siting of the facilities; or

9 “(ii) consider the interstate benefits ex-  
10 pected to be achieved by the proposed construc-  
11 tion or modification of transmission facilities in  
12 the State;

13 “(B) the applicant for a permit is a transmit-  
14 ting utility under this Act but does not qualify to  
15 apply for a permit or siting approval for the pro-  
16 posed project in a State because the applicant does  
17 not serve end-use customers in the State; or

18 “(C) a State commission or other entity that  
19 has authority to approve the siting of the facilities  
20 has—

21 “(i) withheld approval for more than 1  
22 year after the filing of an application seeking  
23 approval pursuant to applicable law or 1 year  
24 after the designation of the relevant national in-

1           terest electric transmission corridor, whichever  
2           is later; or

3           “(ii) conditioned its approval in such a  
4           manner that the proposed construction or modi-  
5           fication will not significantly reduce trans-  
6           mission congestion in interstate commerce or is  
7           not economically feasible;

8           “(2) the facilities to be authorized by the per-  
9           mit will be used for the transmission of electric en-  
10          ergy in interstate commerce;

11          “(3) the proposed construction or modification  
12          is consistent with the public interest;

13          “(4) the proposed construction or modification  
14          will significantly reduce transmission congestion in  
15          interstate commerce and protects or benefits con-  
16          sumers;

17          “(5) the proposed construction or modification  
18          is consistent with sound national energy policy and  
19          will enhance energy independence; and

20          “(6) the proposed modification will maximize,  
21          to the extent reasonable and economical, the trans-  
22          mission capabilities of existing towers or structures  
23          so as to minimize the environmental and visual im-  
24          pact of the proposed modification.

1       “(c) PERMIT APPLICATIONS.—(1) Permit applica-  
 2 tions under subsection (b) shall be made in writing to the  
 3 Commission.

4       “(2) The Commission shall issue rules specifying—

5               “(A) the form of the application;

6               “(B) the information to be contained in the ap-  
 7 plication; and

8               “(C) the manner of service of notice of the per-  
 9 mit application on interested persons.

10       “(d) COMMENTS.—In any proceeding before the  
 11 Commission under subsection (b), the Commission shall  
 12 afford each State in which a transmission facility covered  
 13 by the permit is or will be located, each affected Federal  
 14 agency and Indian tribe, private property owners, and  
 15 other interested persons, a reasonable opportunity to  
 16 present their views and recommendations with respect to  
 17 the need for and impact of a facility covered by the permit.

18       “(e) RIGHTS-OF-WAY.—(1) In the case of a permit  
 19 under subsection (b) for electric transmission facilities to  
 20 be located on property other than property owned by the  
 21 United States or a State, if the permit holder cannot ac-  
 22 quire by contract, or is unable to agree with the owner  
 23 of the property to the compensation to be paid for, the  
 24 necessary right-of-way to construct or modify the trans-  
 25 mission facilities, the permit holder may acquire the right-

1 of-way by the exercise of the right of eminent domain in  
2 the district court of the United States for the district in  
3 which the property concerned is located, or in the appro-  
4 priate court of the State in which the property is located.

5 “(2) Any right-of-way acquired under paragraph (1)  
6 shall be used exclusively for the construction or modifica-  
7 tion of electric transmission facilities within a reasonable  
8 period of time after the acquisition.

9 “(3) The practice and procedure in any action or pro-  
10 ceeding under this subsection in the district court of the  
11 United States shall conform as nearly as practicable to  
12 the practice and procedure in a similar action or pro-  
13 ceeding in the courts of the State in which the property  
14 is located.

15 “(f) COMPENSATION.—(1) Any right-of-way acquired  
16 pursuant to subsection (e) shall be considered a taking of  
17 private property for which just compensation is due.

18 “(2) Just compensation shall be an amount equal to  
19 the fair market value (including applicable severance dam-  
20 ages) of the property taken on the date of the exercise  
21 of eminent domain authority.

22 “(g) STATE LAW.—Nothing in this section precludes  
23 any person from constructing or modifying any trans-  
24 mission facility in accordance with State law.

1       “(h) COORDINATION OF FEDERAL AUTHORIZATIONS  
2 FOR TRANSMISSION FACILITIES.—(1) In this subsection:

3           “(A) The term ‘Federal authorization’ means  
4 any authorization required under Federal law in  
5 order to site a transmission facility.

6           “(B) The term ‘Federal authorization’ includes  
7 such permits, special use authorizations, certifi-  
8 cations, opinions, or other approvals as may be re-  
9 quired under Federal law in order to site a trans-  
10 mission facility.

11       “(2) The Department of Energy shall act as the lead  
12 agency for purposes of coordinating all applicable Federal  
13 authorizations and related environmental reviews of the  
14 facility.

15       “(3) To the maximum extent practicable under appli-  
16 cable Federal law, the Secretary shall coordinate the Fed-  
17 eral authorization and review process under this sub-  
18 section with any Indian tribes, multistate entities, and  
19 State agencies that are responsible for conducting any sep-  
20 arate permitting and environmental reviews of the facility,  
21 to ensure timely and efficient review and permit decisions.

22       “(4)(A) As head of the lead agency, the Secretary,  
23 in consultation with agencies responsible for Federal au-  
24 thorizations and, as appropriate, with Indian tribes,  
25 multistate entities, and State agencies that are willing to

1 coordinate their own separate permitting and environ-  
 2 mental reviews with the Federal authorization and envi-  
 3 ronmental reviews, shall establish prompt and binding in-  
 4 termediate milestones and ultimate deadlines for the re-  
 5 view of, and Federal authorization decisions relating to,  
 6 the proposed facility.

7 “(B) The Secretary shall ensure that, once an appli-  
 8 cation has been submitted with such data as the Secretary  
 9 considers necessary, all permit decisions and related envi-  
 10 ronmental reviews under all applicable Federal laws shall  
 11 be completed—

12 “(i) within 1 year; or

13 “(ii) if a requirement of another provision of  
 14 Federal law does not permit compliance with clause  
 15 (i), as soon thereafter as is practicable.

16 “(C) The Secretary shall provide an expeditious pre-  
 17 application mechanism for prospective applicants to confer  
 18 with the agencies involved to have each such agency deter-  
 19 mine and communicate to the prospective applicant not  
 20 later than 60 days after the prospective applicant submits  
 21 a request for such information concerning—

22 “(i) the likelihood of approval for a potential fa-  
 23 cility; and

24 “(ii) key issues of concern to the agencies and  
 25 public.



1       “(5)(A) As lead agency head, the Secretary, in con-  
2 sultation with the affected agencies, shall prepare a single  
3 environmental review document, which shall be used as the  
4 basis for all decisions on the proposed project under Fed-  
5 eral law.

6       “(B) The Secretary and the heads of other agencies  
7 shall streamline the review and permitting of transmission  
8 within corridors designated under section 503 of the Fed-  
9 eral Land Policy and Management Act (43 U.S.C. 1763)  
10 by fully taking into account prior analyses and decisions  
11 relating to the corridors.

12       “(C) The document shall include consideration by the  
13 relevant agencies of any applicable criteria or other mat-  
14 ters as required under applicable law.

15       “(6)(A) If any agency has denied a Federal author-  
16 ization required for a transmission facility, or has failed  
17 to act by the deadline established by the Secretary pursu-  
18 ant to this section for deciding whether to issue the au-  
19 thorization, the applicant or any State in which the facility  
20 would be located may file an appeal with the President,  
21 who shall, in consultation with the affected agency, review  
22 the denial or failure to take action on the pending applica-  
23 tion.

24       “(B) Based on the overall record and in consultation  
25 with the affected agency, the President may—

1           “(i) issue the necessary authorization with any  
2           appropriate conditions; or

3           “(ii) deny the application.

4           “(C) The President shall issue a decision not later  
5           than 90 days after the date of the filing of the appeal.

6           “(D) In making a decision under this paragraph, the  
7           President shall comply with applicable requirements of  
8           Federal law, including any requirements of—

9           “(i) the National Forest Management Act of  
10          1976 (16 U.S.C. 472a et seq.);

11          “(ii) the Endangered Species Act of 1973 (16  
12          U.S.C. 1531 et seq.);

13          “(iii) the Federal Water Pollution Control Act  
14          (33 U.S.C. 1251 et seq.);

15          “(iv) the National Environmental Policy Act of  
16          1969 (42 U.S.C. 4321 et seq.); and

17          “(v) the Federal Land Policy and Management  
18          Act of 1976 (43 U.S.C. 1701 et seq.).

19          “(7)(A) Not later than 18 months after the date of  
20          enactment of this section, the Secretary shall issue any  
21          regulations necessary to implement this subsection.

22          “(B)(i) Not later than 1 year after the date of enact-  
23          ment of this section, the Secretary and the heads of all  
24          Federal agencies with authority to issue Federal author-  
25          izations shall enter into a memorandum of understanding

1 to ensure the timely and coordinated review and permit-  
2 ting of electricity transmission facilities.

3 “(ii) Interested Indian tribes, multistate entities, and  
4 State agencies may enter the memorandum of under-  
5 standing.

6 “(C) The head of each Federal agency with authority  
7 to issue a Federal authorization shall designate a senior  
8 official responsible for, and dedicate sufficient other staff  
9 and resources to ensure, full implementation of the regula-  
10 tions and memorandum required under this paragraph.

11 “(8)(A) Each Federal land use authorization for an  
12 electricity transmission facility shall be issued—

13 “(i) for a duration, as determined by the Sec-  
14 retary, commensurate with the anticipated use of the  
15 facility; and

16 “(ii) with appropriate authority to manage the  
17 right-of-way for reliability and environmental protec-  
18 tion.

19 “(B) On the expiration of the authorization (includ-  
20 ing an authorization issued before the date of enactment  
21 of this section), the authorization shall be reviewed for re-  
22 newal taking fully into account reliance on such electricity  
23 infrastructure, recognizing the importance of the author-  
24 ization for public health, safety, and economic welfare and  
25 as a legitimate use of Federal land.

1       “(9) In exercising the responsibilities under this sec-  
2 tion, the Secretary shall consult regularly with—

3               “(A) the Federal Energy Regulatory Commis-  
4 sion;

5               “(B) electric reliability organizations (including  
6 related regional entities) approved by the Commis-  
7 sion; and

8               “(C) Transmission Organizations approved by  
9 the Commission.

10       “(i) INTERSTATE COMPACTS.—(1) The consent of  
11 Congress is given for 3 or more contiguous States to enter  
12 into an interstate compact, subject to approval by Con-  
13 gress, establishing regional transmission siting agencies  
14 to—

15               “(A) facilitate siting of future electric energy  
16 transmission facilities within those States; and

17               “(B) carry out the electric energy transmission  
18 siting responsibilities of those States.

19       “(2) The Secretary may provide technical assistance  
20 to regional transmission siting agencies established under  
21 this subsection.

22       “(3) The regional transmission siting agencies shall  
23 have the authority to review, certify, and permit siting of  
24 transmission facilities, including facilities in national in-

1 terest electric transmission corridors (other than facilities  
2 on property owned by the United States).

3 “(4) The Commission shall have no authority to issue  
4 a permit for the construction or modification of an electric  
5 transmission facility within a State that is a party to a  
6 compact, unless the members of the compact are in dis-  
7 agreement and the Secretary makes, after notice and an  
8 opportunity for a hearing, the finding described in sub-  
9 section (b)(1)(C).

10 “(j) RELATIONSHIP TO OTHER LAWS.—(1) Except  
11 as specifically provided, nothing in this section affects any  
12 requirement of an environmental law of the United States,  
13 including the National Environmental Policy Act of 1969  
14 (42 U.S.C. 4321 et seq.).

15 “(2) Subsection (h)(6) shall not apply to any unit of  
16 the National Park System, the National Wildlife Refuge  
17 System, the National Wild and Scenic Rivers System, the  
18 National Trails System, the National Wilderness Preser-  
19 vation System, or a National Monument.”.

20 (b) REPORTS TO CONGRESS ON CORRIDORS AND  
21 RIGHTS OF WAY ON FEDERAL LANDS.—Not later than  
22 90 days after the date of enactment of this Act, the Sec-  
23 retary of the Interior, the Secretary, the Secretary of Agri-  
24 culture, and the Chairman of the Council on Environ-

1 mental Quality shall submit to Congress a joint report  
2 identifying—

3           (1)(A) all existing designated transmission and  
4           distribution corridors on Federal land and the status  
5           of work related to proposed transmission and dis-  
6           tribution corridor designations under title V of the  
7           Federal Land Policy and Management Act of 1976  
8           (43 U.S.C. 1761 et seq.);

9           (B) the schedule for completing the work;

10          (C) any impediments to completing the work;

11          and

12          (D) steps that Congress could take to expedite  
13          the process;

14          (2)(A) the number of pending applications to  
15          locate transmission facilities on Federal land;

16          (B) key information relating to each such facil-  
17          ity;

18          (C) how long each application has been pend-  
19          ing;

20          (D) the schedule for issuing a timely decision as  
21          to each facility; and

22          (E) progress in incorporating existing and new  
23          such rights-of-way into relevant land use and re-  
24          source management plans or the equivalent of those  
25          plans; and

1           (3)(A) the number of existing transmission and  
 2           distribution rights-of-way on Federal land that will  
 3           come up for renewal within the following 5-, 10-,  
 4           and 15-year periods; and

5           (B) a description of how the Secretaries plan to  
 6           manage the renewals.

7   **SEC. 1222. THIRD-PARTY FINANCE.**

8           (a) EXISTING FACILITIES.—The Secretary, acting  
 9           through the Administrator of the Western Area Power Ad-  
 10          ministration (referred to in this section as “WAPA”) or  
 11          the Administrator of the Southwestern Power Administra-  
 12          tion (referred to in this section as “SWPA”), or both, may  
 13          carry out a project to design, develop, construct, operate,  
 14          maintain, or own, or participate with other entities in de-  
 15          signing, developing, constructing, operating, maintaining,  
 16          or owning, an electric power transmission facility and re-  
 17          lated facilities needed to upgrade existing transmission fa-  
 18          cilities owned by the SWPA or WAPA if the Secretary,  
 19          in consultation with the applicable Administrator, deter-  
 20          mines that the proposed project—

21           (1)(A) is located in a national interest electric  
 22           transmission corridor designated under section  
 23           216(a) of the Federal Power Act and will reduce  
 24           congestion of electric transmission in interstate com-  
 25           merce; or

1           (B) is necessary to accommodate an actual or  
2       projected increase in demand for electric trans-  
3       mission capacity;

4           (2) is consistent with—

5               (A) transmission needs identified, in a  
6       transmission expansion plan or otherwise, by  
7       the appropriate Transmission Organization (as  
8       defined in section 3 of the Federal Power Act  
9       (16 U.S.C. 796)), if any, or approved regional  
10      reliability organization; and

11           (B) efficient and reliable operation of the  
12      transmission grid; and

13           (3) would be operated in conformance with pru-  
14      dent utility practice.

15      (b) NEW FACILITIES.—The Secretary, acting  
16      through the WAPA or SWPA, or both, may carry out a  
17      project to design, develop, construct, operate, maintain, or  
18      own, or participate with other entities in designing, devel-  
19      oping, constructing, operating, maintaining, or owning, a  
20      new electric power transmission facility and related facili-  
21      ties located within any State in which the WAPA or  
22      SWPA operates if the Secretary, in consultation with the  
23      applicable Administrator, determines that the proposed  
24      project—



1           (1)(A) is located in a national interest electric  
2           transmission corridor designated under section  
3           216(a) of the Federal Power Act and will reduce  
4           congestion of electric transmission in interstate com-  
5           merce; or

6           (B) is necessary to accommodate an actual or  
7           projected increase in demand for electric trans-  
8           mission capacity;

9           (2) is consistent with—

10           (A) transmission needs identified, in a  
11           transmission expansion plan or otherwise, by  
12           the appropriate Transmission Organization, if  
13           any, or approved regional reliability organiza-  
14           tion; and

15           (B) efficient and reliable operation of the  
16           transmission grid;

17           (3) will be operated in conformance with pru-  
18           dent utility practice;

19           (4) will be operated by, or in conformance with  
20           the rules of, the appropriate—

21           (A) Transmission Organization, if any; or

22           (B) if such an organization does not exist,  
23           regional reliability organization; and

24           (5) will not duplicate the functions of existing  
25           transmission facilities or proposed facilities that are

1 the subject of ongoing or approved siting and related  
2 permitting proceedings.

3 (c) OTHER FUNDS.—

4 (1) IN GENERAL.—In carrying out a project  
5 under subsection (a) or (b), the Secretary may ac-  
6 cept and use funds contributed by another entity for  
7 the purpose of carrying out the project.

8 (2) AVAILABILITY.—The contributed funds  
9 shall be available for expenditure for the purpose of  
10 carrying out the project—

11 (A) without fiscal year limitation; and

12 (B) as if the funds had been appropriated  
13 specifically for the project.

14 (3) ALLOCATION OF COSTS.—In carrying out a  
15 project under subsection (a) or (b), any costs of the  
16 project not paid for by contributions from another  
17 entity shall be—

18 (A) collected through rates charged to cus-  
19 tomers using the new transmission capability  
20 provided by the project; and

21 (B) allocated equitably among these  
22 project beneficiaries using the new transmission  
23 capability.

24 (d) RELATIONSHIP TO OTHER LAWS.—Nothing in  
25 this section affects any requirement of—

1           (1) any Federal environmental law, including  
2           the National Environmental Policy Act of 1969 (42  
3           U.S.C. 4321 et seq.);

4           (2) any Federal or State law relating to the  
5           siting of energy facilities; or

6           (3) any authorizing law in effect on the date of  
7           enactment of this Act.

8           (e) SAVINGS CLAUSE.—Nothing in this section con-  
9           strains or restricts an Administrator in the use of other  
10          authority delegated to the Administrator of the WAPA or  
11          SWPA.

12          (f) SECRETARIAL DETERMINATIONS.—Any deter-  
13          mination made pursuant to subsection (a) or (b) shall be  
14          based on findings by the Secretary using the best available  
15          data.

16          (g) MAXIMUM FUNDING AMOUNT.—The Secretary  
17          shall not accept and use more than \$100,000,000 under  
18          subsection (c)(1) for the period of fiscal years 2006  
19          through 2013.

20      **SEC. 1223. ADVANCED TRANSMISSION TECHNOLOGIES.**

21          (a) DEFINITION OF ADVANCED TRANSMISSION  
22          TECHNOLOGY.—In this section, the term “advanced  
23          transmission technology” means a technology that in-  
24          creases the capacity, efficiency, or reliability of an existing  
25          or new transmission facility, including—

- 1           (1) high-temperature lines (including super-  
2           conducting cables);
- 3           (2) underground cables;
- 4           (3) advanced conductor technology (including  
5           advanced composite conductors, high-temperature  
6           low-sag conductors, and fiber optic temperature  
7           sensing conductors);
- 8           (4) high-capacity ceramic electric wire, connec-  
9           tors, and insulators;
- 10          (5) optimized transmission line configurations  
11          (including multiple phased transmission lines);
- 12          (6) modular equipment;
- 13          (7) wireless power transmission;
- 14          (8) ultra-high voltage lines;
- 15          (9) high-voltage DC technology;
- 16          (10) flexible AC transmission systems;
- 17          (11) energy storage devices (including pumped  
18          hydro, compressed air, superconducting magnetic en-  
19          ergy storage, flywheels, and batteries);
- 20          (12) controllable load;
- 21          (13) distributed generation (including PV, fuel  
22          cells, and microturbines);
- 23          (14) enhanced power device monitoring;
- 24          (15) direct system state sensors;
- 25          (16) fiber optic technologies;

1           (17) power electronics and related software (in-  
 2           cluding real time monitoring and analytical soft-  
 3           ware);

4           (18) mobile transformers and mobile sub-  
 5           stations; and

6           (19) any other technologies the Commission  
 7           considers appropriate.

8           (b) **AUTHORITY.**—In carrying out the Federal Power  
 9           Act (16 U.S.C. 791a et seq.) and the Public Utility Regu-  
 10          latory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the  
 11          Commission shall encourage, as appropriate, the deploy-  
 12          ment of advanced transmission technologies.

13       **SEC. 1224. ADVANCED POWER SYSTEM TECHNOLOGY IN-**  
 14       **CENTIVE PROGRAM.**

15       (a) **DEFINITIONS.**—In this section:

16           (1) **QUALIFYING ADVANCED POWER SYSTEM**  
 17           **TECHNOLOGY FACILITY.**—The term “qualifying ad-  
 18           vanced power system technology facility” means a  
 19           facility using an advanced fuel cell, turbine, or hy-  
 20           brid power system or power storage system to gen-  
 21           erate or store electric energy.

22           (2) **QUALIFYING SECURITY AND ASSURED**  
 23           **POWER FACILITY.**—The term “qualifying security  
 24           and assured power facility” means a qualifying ad-  
 25           vanced power system technology facility determined

1 by the Secretary, in consultation with the Secretary  
2 of Homeland Security, to be in critical need of se-  
3 cure, reliable, rapidly available, high-quality power  
4 for critical governmental, industrial, or commercial  
5 applications.

6 (b) PROGRAM.—The Secretary may establish an ad-  
7 vanced power system technology incentive program to—

8 (1) support the deployment of certain advanced  
9 power system technologies; and

10 (2) improve and protect certain critical govern-  
11 mental, industrial, and commercial processes.

12 (c) INCENTIVE PAYMENTS.—

13 (1) IN GENERAL.—Funds provided under this  
14 section shall be used by the Secretary to make incen-  
15 tive payments to eligible owners or operators of ad-  
16 vanced power system technologies to increase power  
17 generation through enhanced operational, economic,  
18 and environmental performance.

19 (2) APPLICATION.—Payments under this sec-  
20 tion may only be made on receipt by the Secretary  
21 of an incentive payment application establishing an  
22 applicant as—

23 (A) a qualifying advanced power system  
24 technology facility; or

1 (B) a qualifying security and assured  
2 power facility.

3 (3) PAYMENT RATES.—Subject to availability of  
4 funds—

5 (A) a payment of 1.8 cents per kilowatt-  
6 hour shall be paid to the owner or operator of  
7 a qualifying advanced power system technology  
8 facility under this section for electricity gen-  
9 erated at the facility; and

10 (B) an additional 0.7 cents per kilowatt-  
11 hour shall be paid to the owner or operator of  
12 a qualifying security and assured power facility  
13 for electricity generated at the facility.

14 (4) PAYMENT QUANTITY.—Any facility quali-  
15 fying under this section shall be eligible for an in-  
16 centive payment for up to, but not more than, the  
17 first 10,000,000 kilowatt-hours produced in any fis-  
18 cal year.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
20 authorized to be appropriated to the Secretary to carry  
21 out this section \$10,000,000 for each of fiscal years 2006  
22 through 2012.

## **Subtitle C—Transmission Operation Improvements**

### **SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.**

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

#### **“SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.**

“(a) DEFINITION OF UNREGULATED TRANSMITTING UTILITY.—In this section, the term ‘unregulated transmitting utility’ means an entity that—

“(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

“(2) is an entity described in section 201(f).

“(b) TRANSMISSION OPERATION IMPROVEMENTS.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

“(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

“(2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides trans-



1 mission services to itself and that are not unduly  
2 discriminatory or preferential.

3 “(c) EXEMPTION.—The Commission shall exempt  
4 from any rule or order under this section any unregulated  
5 transmitting utility that—

6 “(1) sells not more than 4,000,000 megawatt  
7 hours of electricity per year;

8 “(2) does not own or operate any transmission  
9 facilities that are necessary for operating an inter-  
10 connected transmission system (or any portion of the  
11 system); or

12 “(3) meets other criteria the Commission deter-  
13 mines to be in the public interest.

14 “(d) LOCAL DISTRIBUTION FACILITIES.—The re-  
15 quirements of subsection (b) shall not apply to facilities  
16 used in local distribution.

17 “(e) EXEMPTION TERMINATION.—If the Commis-  
18 sion, after an evidentiary hearing held on a complaint and  
19 after giving consideration to reliability standards estab-  
20 lished under section 215, finds on the basis of a prepon-  
21 derance of the evidence that any exemption granted pursu-  
22 ant to subsection (c) unreasonably impairs the continued  
23 reliability of an interconnected transmission system, the  
24 Commission shall revoke the exemption granted to the  
25 transmitting utility.

1       “(f) APPLICATION TO UNREGULATED TRANSMITTING  
2 UTILITIES.—The rate changing procedures applicable to  
3 public utilities under subsections (c) and (d) of section 205  
4 are applicable to unregulated transmitting utilities for  
5 purposes of this section.

6       “(g) REMAND.—In exercising authority under sub-  
7 section (b)(1), the Commission may remand transmission  
8 rates to an unregulated transmitting utility for review and  
9 revision if necessary to meet the requirements of sub-  
10 section (b).

11       “(h) OTHER REQUESTS.—The provision of trans-  
12 mission services under subsection (b) does not preclude  
13 a request for transmission services under section 211.

14       “(i) LIMITATION.—The Commission may not require  
15 a State or municipality to take action under this section  
16 that would violate a private activity bond rule for purposes  
17 of section 141 of the Internal Revenue Code of 1986.

18       “(j) TRANSFER OF CONTROL OF TRANSMITTING FA-  
19 CILITIES.—Nothing in this section authorizes the Commis-  
20 sion to require an unregulated transmitting utility to  
21 transfer control or operational control of its transmitting  
22 facilities to a Transmission Organization that is des-  
23 ignated to provide nondiscriminatory transmission ac-  
24 cess.”.

1 **SEC. 1232. REGIONAL TRANSMISSION ORGANIZATIONS.**

2 Part II of the Federal Power Act (16 U.S.C. 824 et  
3 seq.) (as amended by section 1221(a)) is amended by add-  
4 ing at the end the following:

5 **“SEC. 217. PROMOTION OF VOLUNTARY TRANSMISSION OR-**  
6 **GANIZATIONS.**

7 “(a) IN GENERAL.—The Commission may encourage  
8 and may approve the voluntary formation of RTOs, ISOs,  
9 or other similar organizations approved by the Commis-  
10 sion for the purposes of—

11 “(1) promoting fair, open access to electric  
12 transmission service;

13 “(2) facilitating wholesale competition;

14 “(3) improving efficiencies in transmission grid  
15 management;

16 “(4) promoting grid reliability;

17 “(5) removing opportunities for unduly dis-  
18 criminatory or preferential transmission practices;  
19 and

20 “(6) providing for the efficient development of  
21 transmission infrastructure needed to meet the  
22 growing demands of competitive wholesale power  
23 markets.

24 “(b) OPERATIONAL CONTROL.—No order issued  
25 under this Act shall be conditioned on or require a trans-  
26 mitting utility to transfer operational control of jurisdic-

1 tional facilities to a Transmission Organization approved  
2 by the Commission.

3 “(c) ANNUAL AUDITS.—(1) Each Transmission Or-  
4 ganization shall report to the Commission on a scheduled  
5 basis, as determined by the Commission, the means by  
6 which the Transmission Organization will ensure that the  
7 Transmission Organization will operate and perform the  
8 functions of the Transmission Organization in a cost effec-  
9 tive manner that is also consistent with the obligations of  
10 the Transmission Organization under the Commission-ap-  
11 proved tariffs and agreements of the Transmission Orga-  
12 nization.

13 “(2) The Commission shall annually audit the compli-  
14 ance of the Transmission Organization with the filed plan  
15 and any additional Commission requirements concerning  
16 the performance, operations, and cost efficiencies of the  
17 Transmission Organization.

18 “(3) The Commission shall establish appropriate ac-  
19 counting procedures for recording costs to facilitate com-  
20 parisons among Transmission Organizations and, to the  
21 extent practicable, among other transmitting utilities per-  
22 forming similar functions.”.

23 **SEC. 1233. FEDERAL UTILITY PARTICIPATION IN TRANS-**  
24 **MISSION ORGANIZATIONS.**

25 (a) DEFINITIONS.—In this section—

1           (1) APPROPRIATE FEDERAL REGULATORY AU-  
2           THORITY.—The term “appropriate Federal regu-  
3           latory authority” means—

4                   (A) in the case of a Federal power mar-  
5                   keting agency, the Secretary, except that the  
6                   Secretary may designate the Administrator of a  
7                   Federal power marketing agency to act as the  
8                   appropriate Federal regulatory authority with  
9                   respect to the transmission system of the Fed-  
10                  eral power marketing agency; and

11                   (B) in the case of the Tennessee Valley  
12                   Authority, the Board of Directors of the Ten-  
13                   nessee Valley Authority.

14           (2) FEDERAL POWER MARKETING AGENCY.—  
15           The term “Federal power marketing agency” has  
16           the meaning given the term in section 3 of the Fed-  
17           eral Power Act (16 U.S.C. 796).

18           (3) FEDERAL UTILITY.—The term “Federal  
19           utility” means—

20                   (A) a Federal power marketing agency; or

21                   (B) the Tennessee Valley Authority.

22           (4) TRANSMISSION ORGANIZATION.—The term  
23           “Transmission Organization” has the meaning given  
24           the term in section 3 of the Federal Power Act (16  
25           U.S.C. 796).

1           (5) TRANSMISSION SYSTEM.—The term “trans-  
2       mission system” means an electric transmission fa-  
3       cility owned, leased, or contracted for by the United  
4       States and operated by a Federal utility.

5       (b) TRANSFER.—The appropriate Federal regulatory  
6       authority may enter into a contract, agreement, or other  
7       arrangement transferring control and use of all or part  
8       of the transmission system of a Federal utility to a Trans-  
9       mission Organization.

10       (c) CONTENTS.—The contract, agreement, or ar-  
11       rangement shall include—

12           (1) performance standards for operation and  
13       use of the transmission system that the head of the  
14       Federal utility determines are necessary or appro-  
15       priate, including standards that ensure—

16           (A) recovery of all of the costs and ex-  
17       penses of the Federal utility related to the  
18       transmission facilities that are the subject of  
19       the contract, agreement, or other arrangement;

20           (B) consistency with existing contracts and  
21       third-party financing arrangements; and

22           (C) consistency with the statutory authori-  
23       ties, obligations, and limitations of the Federal  
24       utility;

1           (2) provisions for monitoring and oversight by  
2           the Federal utility of the Transmission Organiza-  
3           tion's terms and conditions of the contract, agree-  
4           ment, or other arrangement, including a provision  
5           for the resolution of disputes through arbitration or  
6           other means with the Transmission Organization or  
7           with other participants, notwithstanding the obliga-  
8           tions and limitations of any other law regarding ar-  
9           bitration; and

10           (3) a provision that allows the Federal utility to  
11           withdraw from the Transmission Organization and  
12           terminate the contract, agreement, or other arrange-  
13           ment in accordance with its terms.

14           (d) COMMISSION.—Neither this section, actions taken  
15           pursuant to this section, nor any other transaction of a  
16           Federal utility participating in a Transmission Organiza-  
17           tion shall confer on the Commission jurisdiction or author-  
18           ity over—

19           (1) the electric generation assets, electric capac-  
20           ity, or energy of the Federal utility that the Federal  
21           utility is authorized by law to market; or

22           (2) the power sales activities of the Federal  
23           utility.

24           (e) EXISTING STATUTORY AND OTHER OBLIGA-  
25           TIONS.—

1           (1) SYSTEM OPERATION REQUIREMENTS.—No  
2       statutory provision requiring or authorizing a Fed-  
3       eral utility to transmit electric power or to construct,  
4       operate, or maintain the transmission system of the  
5       Federal utility prohibits a transfer of control and  
6       use of the transmission system pursuant to, and  
7       subject to, the requirements of this section.

8           (2) OTHER OBLIGATIONS.—This subsection  
9       does not—

10           (A) suspend, or exempt any Federal utility  
11       from, any provision of Federal law in effect on  
12       the date of enactment of this Act, including any  
13       requirement or direction relating to the use of  
14       the transmission system of the Federal utility,  
15       environmental protection, fish and wildlife pro-  
16       tection, flood control, navigation, water delivery,  
17       or recreation; or

18           (B) authorize abrogation of any contract  
19       or treaty obligation.

20           (3) CONFORMING AMENDMENT.—Section 311  
21       of the Energy and Water Development Appropria-  
22       tions Act, 2001 (16 U.S.C. 824n) is repealed.

23 **SEC. 1234. STANDARD MARKET DESIGN.**

24       The proposed rulemaking of the Commission entitled  
25       “Remedying Undue Discrimination through Open Access



1 Transmission Service and Standard Electricity Market  
 2 Design” (Docket No. RM01–12–000) (commonly known  
 3 as “SMD NOPR”) is terminated and shall not be re-  
 4 issued.

5 **SEC. 1235. NATIVE LOAD SERVICE OBLIGATION.**

6 Part II of the Federal Power Act (16 U.S.C. 824 et  
 7 seq.) (as amended by section 1232) is amended by adding  
 8 at the end the following:

9 **“SEC. 218. NATIVE LOAD SERVICE OBLIGATION.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) The term ‘distribution utility’ means an  
 12 electric utility that has a service obligation to end-  
 13 users or to a State utility or electric cooperative  
 14 that, directly or indirectly, through 1 or more addi-  
 15 tional State utilities or electric cooperatives, provides  
 16 electric service to end-users.

17 “(2) The term ‘load-serving entity’ means a dis-  
 18 tribution utility or an electric utility that has a serv-  
 19 ice obligation.

20 “(3) The term ‘service obligation’ means a re-  
 21 quirement applicable to, or the exercise of authority  
 22 granted to, an electric utility under Federal, State,  
 23 or local law or under long-term contracts to provide  
 24 electric service to end-users or to a distribution util-  
 25 ity.

1           “(4) The term ‘State utility’ means a State or  
2           any political subdivision of a State, or any agency,  
3           authority, or instrumentality of any 1 or more  
4           States or political subdivisions, or a corporation that  
5           is wholly owned, directly or indirectly, by any 1 or  
6           more of the States or political subdivisions, com-  
7           petent to carry on the business of developing, trans-  
8           mitting, using, or distributing power.

9           “(b) MEETING SERVICE OBLIGATIONS.—(1) Para-  
10          graph (2) applies to any load-serving entity that, as of  
11          the date of enactment of this section—

12           “(A) owns generation facilities, markets the  
13           output of Federal generation facilities, or holds  
14           rights under 1 or more wholesale contracts to pur-  
15           chase electric energy, for the purpose of meeting a  
16           service obligation; and

17           “(B) by reason of ownership of transmission fa-  
18           cilities, or 1 or more contracts or service agreements  
19           for firm transmission service, holds firm trans-  
20           mission rights for delivery of the output of the gen-  
21           eration facilities or the purchased energy to meet the  
22           service obligation.

23           “(2) Any load-serving entity described in paragraph  
24          (1) is entitled to use the firm transmission rights, or,  
25          equivalent tradable or financial transmission rights, in

1 order to deliver the output or purchased energy, or the  
2 output of other generating facilities or purchased energy  
3 to the extent deliverable using the rights, to the extent  
4 required to meet the service obligation of the load-serving  
5 entity.

6 “(3)(A) To the extent that all or a portion of the  
7 service obligation covered by the firm transmission rights  
8 or equivalent tradable or financial transmission rights is  
9 transferred to another load-serving entity, the successor  
10 load-serving entity shall be entitled to use the firm trans-  
11 mission rights or equivalent tradable or financial trans-  
12 mission rights associated with the transferred service obli-  
13 gation.

14 “(B) Subsequent transfers to another load-serving  
15 entity, or back to the original load-serving entity, shall be  
16 entitled to the same rights.

17 “(4) The Commission shall exercise the authority of  
18 the Commission under this Act in a manner that facili-  
19 tates the planning and expansion of transmission facilities  
20 to meet the reasonable needs of load-serving entities to  
21 satisfy the service obligations of the load-serving entities,  
22 and enables load-serving entities to secure firm trans-  
23 mission rights (or equivalent tradable or financial rights)  
24 on a long term basis for long term power supply arrange-  
25 ments made, or planned, to meet such needs.

1       “(c) ALLOCATION OF TRANSMISSION RIGHTS.—  
2 Nothing in subsections (b)(1), (b)(2) and (b)(3) of this  
3 section shall affect any existing or future methodology em-  
4 ployed by a Transmission Organization for allocating or  
5 auctioning transmission rights if such Transmission Orga-  
6 nization was authorized by the Commission to allocate or  
7 auction financial transmission rights on its system as of  
8 January 1, 2005, and the Commission determines that  
9 any future allocation or auction is just, reasonable and  
10 not unduly discriminatory or preferential, provided, how-  
11 ever, that if such a Transmission Organization never allo-  
12 cated financial transmission rights on its system that per-  
13 tained to a period before January 1, 2005, with respect  
14 to any application by such Transmission Organization that  
15 would change its methodology the Commission shall exer-  
16 cise its authority in a manner consistent with the Act and  
17 that takes into account the policies expressed in sub-  
18 sections (b)(1), (b)(2) and (b)(3) as applied to firm trans-  
19 mission rights held by a load-serving entity as of January  
20 1, 2005, to the extent the associated generation ownership  
21 or power purchase arrangements remain in effect.

22       “(d) CERTAIN TRANSMISSION RIGHTS.—The Com-  
23 mission may exercise authority under this Act to make  
24 transmission rights not used to meet an obligation covered  
25 by subsection (b) available to other entities in a manner

1 determined by the Commission to be just, reasonable, and  
2 not unduly discriminatory or preferential.

3 “(e) OBLIGATION TO BUILD.—Nothing in this Act re-  
4 lieves a load-serving entity from any obligation under  
5 State or local law to build transmission or distribution fa-  
6 cilities adequate to meet the service obligations of the load-  
7 serving entity.

8 “(f) CONTRACTS.—Nothing in this section shall pro-  
9 vide a basis for abrogating any contract or service agree-  
10 ment for firm transmission service or rights in effect as  
11 of the date of the enactment of this subsection. If an ISO  
12 in the Western Interconnection had allocated financial  
13 transmission rights prior to the date of enactment of this  
14 section but had not done so with respect to one or more  
15 load-serving entities’ firm transmission rights held under  
16 contracts to which the preceding sentence applies (or held  
17 by reason of ownership or future ownership of trans-  
18 mission facilities), such load-serving entities may not be  
19 required, without their consent, to convert such firm  
20 transmission rights to tradable or financial rights, except  
21 where the load-serving entity has voluntarily joined the  
22 ISO as a participating transmission owner (or its suc-  
23 cessor) in accordance with the ISO tariff.

24 “(g) WATER PUMPING FACILITIES.—The Commis-  
25 sion shall ensure that any entity described in section

1 201(f) that owns transmission facilities used predomi-  
 2 nately to support its own water pumping facilities shall  
 3 have, with respect to the facilities, protections for trans-  
 4 mission service comparable to those provided to load-serv-  
 5 ing entities pursuant to this section.

6 “(h) ERCOT.—This section shall not apply within  
 7 the area referred to in section 212(k)(2)(A).

8 “(i) JURISDICTION.—This section does not authorize  
 9 the Commission to take any action not otherwise within  
 10 the jurisdiction of the Commission.

11 “(j) TVA AREA.—(1) Subject to paragraphs (2) and  
 12 (3), for purposes of subsection (b)(1)(B), a load-serving  
 13 entity that is located within the service area of the Ten-  
 14 nessee Valley Authority and that has a firm wholesale  
 15 power supply contract with the Tennessee Valley Author-  
 16 ity shall be considered to hold firm transmission rights  
 17 for the transmission of the power provided.

18 “(2) Nothing in this subsection affects the require-  
 19 ments of section 212(j).

20 “(3) The Commission shall not issue an order on the  
 21 basis of this subsection that is contrary to the purposes  
 22 of section 212(j).”.

23 (h) FERC RULEMAKING ON LONG-TERM TRANS-  
 24 MISSION RIGHTS IN ORGANIZED MARKETS.—Within one  
 25 year after the date of enactment of this section and after

1 notice and an opportunity for comment, the Commission  
 2 shall by rule or order implement subsection (b)(4) in  
 3 Transmission Organizations with organized electricity  
 4 markets.

5 (i) EFFECT OF EXERCISING RIGHTS.—An entity that  
 6 to the extent required to meet its service obligations exer-  
 7 cises rights described in subsection (b) shall not be consid-  
 8 ered by such action as engaging in undue discrimination  
 9 or preference under this Act.

10 **SEC. 1236. PROTECTION OF TRANSMISSION CONTRACTS IN**  
 11 **THE PACIFIC NORTHWEST.**

12 Part II of the Federal Power Act (16 U.S.C. 824 et  
 13 seq.) (as amended by section 1235) is amended by adding  
 14 at the end the following:

15 **“SEC. 219. PROTECTION OF TRANSMISSION CONTRACTS IN**  
 16 **THE PACIFIC NORTHWEST.**

17 “(a) DEFINITION OF ELECTRIC UTILITY OR PER-  
 18 SON.—In this section, the term ‘electric utility or person’  
 19 means an electric utility or person that—

20 “(1) as of the date of enactment of the Energy  
 21 Policy Act of 2005 holds firm transmission rights  
 22 pursuant to contract or by reason of ownership of  
 23 transmission facilities; and

24 “(2) is located—

1           “(A) in the Pacific Northwest, as that re-  
 2           gion is defined in section 3 of the Pacific  
 3           Northwest Electric Power Planning and Con-  
 4           servation Act (16 U.S.C. 839a); or

5           “(B) in that portion of a State included in  
 6           the geographic area proposed for a regional  
 7           transmission organization in Commission Dock-  
 8           et Number RT01–35 on the date on which that  
 9           docket was opened.

10       “(b) PROTECTION OF TRANSMISSION CONTRACTS.—  
 11       Nothing in this Act confers on the Commission the author-  
 12       ity to require an electric utility or person to convert to  
 13       tradable or financial rights—

14           “(1) firm transmission rights described in sub-  
 15       section (a)(1); or

16           “(2) firm transmission rights obtained by exer-  
 17       cising contract or tariff rights associated with the  
 18       firm transmission rights described in subsection  
 19       (a)(1).”.

## 20       **Subtitle D—Transmission Rate** 21       **Reform**

### 22       **SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

23       Part II of the Federal Power Act (16 U.S.C. 824 et  
 24       seq.) (as amended by section 1236) is amended by adding  
 25       at the end the following:



1 **“SEC. 220. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

2       “(a) RULEMAKING REQUIREMENT.—Not later than  
3 1 year after the date of enactment of this section, the  
4 Commission shall establish, by rule, incentive-based (in-  
5 cluding performance-based) rate treatments for the trans-  
6 mission of electric energy in interstate commerce by public  
7 utilities for the purpose of benefiting consumers by ensur-  
8 ing reliability and reducing the cost of delivered power by  
9 reducing transmission congestion.

10       “(b) CONTENTS.—The rule shall—

11               “(1) promote reliable and economically efficient  
12 transmission and generation of electricity by pro-  
13 moting capital investment in the enlargement, im-  
14 provement, maintenance, and operation of all facili-  
15 ties for the transmission of electric energy in inter-  
16 state commerce, regardless of the ownership of the  
17 facilities;

18               “(2) provide a return on equity that attracts  
19 new investment in transmission facilities (including  
20 related transmission technologies);

21               “(3) encourage deployment of transmission  
22 technologies and other measures to increase the ca-  
23 pacity and efficiency of existing transmission facili-  
24 ties and improve the operation of the facilities; and

25               “(4) allow recovery of—

1           “(A) all prudently incurred costs necessary  
 2           to comply with mandatory reliability standards  
 3           issued pursuant to section 215; and

4           “(B) all prudently incurred costs related to  
 5           transmission infrastructure development pursu-  
 6           ant to section 216.

7           “(c) **JUST AND REASONABLE RATES.**—All rates ap-  
 8           proved under the rules adopted pursuant to this section,  
 9           including any revisions to the rules, are subject to the re-  
 10          quirements of sections 205 and 206 that all rates, charges,  
 11          terms, and conditions be just and reasonable and not un-  
 12          duly discriminatory or preferential.”.

13       **SEC. 1242. FUNDING NEW INTERCONNECTION AND TRANS-**  
 14               **MISSION UPGRADES.**

15          The Commission may approve a participant funding  
 16          plan that allocates costs related to transmission upgrades  
 17          or new generator interconnection, without regard to  
 18          whether an applicant is a member of a Commission-ap-  
 19          proved Transmission Organization, if the plan results in  
 20          rates that—

- 21               (1) are just and reasonable;
- 22               (2) are not unduly discriminatory or pref-
- 23               erential; and

1           (3) are otherwise consistent with sections 205  
 2           and 206 of the Federal Power Act (16 U.S.C. 824d,  
 3           824e).

## 4   **Subtitle E—Amendments to PURPA**

### 5   **SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.**

6           (a) ADOPTION OF STANDARDS.—Section 111(d) of  
 7   the Public Utility Regulatory Policies Act of 1978 (16  
 8   U.S.C. 2621(d)) is amended by adding at the end the fol-  
 9   lowing:

10           “(11) NET METERING.—Each electric utility  
 11       shall make available upon request net metering serv-  
 12       ice to any electric consumer that the electric utility  
 13       serves. For purposes of this paragraph, the term  
 14       ‘net metering service’ means service to an electric  
 15       consumer under which electric energy generated by  
 16       that electric consumer from an eligible on-site gener-  
 17       ating facility and delivered to the local distribution  
 18       facilities may be used to offset electric energy pro-  
 19       vided by the electric utility to the electric consumer  
 20       during the applicable billing period.

21           “(12) FUEL SOURCES.—Each electric utility  
 22       shall develop a plan to minimize dependence on 1  
 23       fuel source and to ensure that the electric energy it  
 24       sells to consumers is generated using a diverse range

1 of fuels and technologies, including renewable tech-  
2 nologies.

3 “(13) FOSSIL FUEL GENERATION EFFI-  
4 CIENCY.—Each electric utility shall develop and im-  
5 plement a 10-year plan to increase the efficiency of  
6 its fossil fuel generation.”.

7 (b) COMPLIANCE.—

8 (1) TIME LIMITATIONS.—Section 112(b) of the  
9 Public Utility Regulatory Policies Act of 1978 (16  
10 U.S.C. 2622(b)) is amended by adding at the end  
11 the following:

12 “(3)(A) Not later than 2 years after the enactment  
13 of this paragraph, each State regulatory authority (with  
14 respect to each electric utility for which it has ratemaking  
15 authority) and each nonregulated electric utility shall com-  
16 mence the consideration referred to in section 111, or set  
17 a hearing date for such consideration, with respect to each  
18 standard established by paragraphs (11) through (13) of  
19 section 111(d).

20 “(B) Not later than 3 years after the date of the en-  
21 actment of this paragraph, each State regulatory authority  
22 (with respect to each electric utility for which it has rate-  
23 making authority), and each nonregulated electric utility,  
24 shall complete the consideration, and shall make the deter-  
25 mination, referred to in section 111 with respect to each

1 standard established by paragraphs (11) through (13) of  
2 section 111(d).”.

3 (2) FAILURE TO COMPLY.—Section 112(c) of  
4 the Public Utility Regulatory Policies Act of 1978  
5 (16 U.S.C. 2622(c)) is amended by adding at the  
6 end the following:

7 “In the case of each standard established by paragraphs  
8 (11) through (13) of section 111(d), the reference con-  
9 tained in this subsection to the date of enactment of this  
10 Act shall be deemed to be a reference to the date of enact-  
11 ment of such paragraphs (11) through (13).”.

12 (3) PRIOR STATE ACTIONS.—

13 (A) IN GENERAL.—Section 112 of the  
14 Public Utility Regulatory Policies Act of 1978  
15 (16 U.S.C. 2622) is amended by adding at the  
16 end the following:

17 “(d) PRIOR STATE ACTIONS.—Subsections (b) and  
18 (c) of this section shall not apply to the standards estab-  
19 lished by paragraphs (11) through (13) of section 111(d)  
20 in the case of any electric utility in a State if, before the  
21 enactment of this subsection—

22 “(1) the State has implemented for such utility  
23 the standard concerned (or a comparable standard);

24 “(2) the State regulatory authority for such  
25 State or relevant nonregulated electric utility has

1 conducted a proceeding to consider implementation  
 2 of the standard concerned (or a comparable stand-  
 3 ard) for such utility; or

4 “(3) the State legislature has voted on the im-  
 5 plementation of such standard (or a comparable  
 6 standard) for such utility.”.

7 (B) CROSS REFERENCE.—Section 124 of  
 8 such Act (16 U.S.C. 2634) is amended by add-  
 9 ing the following at the end thereof: “In the  
 10 case of each standard established by paragraphs  
 11 (11) through (13) of section 111(d), the ref-  
 12 erence contained in this subsection to the date  
 13 of enactment of this Act shall be deemed to be  
 14 a reference to the date of enactment of such  
 15 paragraphs (11) through (13).”.

16 **SEC. 1252. SMART METERING.**

17 (a) IN GENERAL.—Section 111(d) of the Public Utili-  
 18 ties Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))  
 19 is amended by adding at the end the following:

20 “(14) TIME-BASED METERING AND COMMU-  
 21 NICATIONS.—

22 “(A) Not later than 18 months after the  
 23 date of enactment of this paragraph, each elec-  
 24 tric utility shall offer each of its customer class-  
 25 es, and provide individual customers upon cus-

1           tomer request, a time-based rate schedule under  
2           which the rate charged by the electric utility  
3           varies during different time periods and reflects  
4           the variance, if any, in the utility's costs of gen-  
5           erating and purchasing electricity at the whole-  
6           sale level. The time-based rate schedule shall  
7           enable the electric consumer to manage energy  
8           use and cost through advanced metering and  
9           communications technology.

10           “(B) The types of time-based rate sched-  
11           ules that may be offered under the schedule re-  
12           ferred to in subparagraph (A) include, among  
13           others—

14                   “(i) time-of-use pricing whereby elec-  
15                   tricity prices are set for a specific time pe-  
16                   riod on an advance or forward basis, typi-  
17                   cally not changing more often than twice a  
18                   year, based on the utility's cost of gener-  
19                   ating and/or purchasing such electricity at  
20                   the wholesale level for the benefit of the  
21                   consumer. Prices paid for energy consumed  
22                   during these periods shall be pre-estab-  
23                   lished and known to consumers in advance  
24                   of such consumption, allowing them to  
25                   vary their demand and usage in response

1 to such prices and manage their energy  
2 costs by shifting usage to a lower cost pe-  
3 riod or reducing their consumption overall;

4 “(ii) critical peak pricing whereby  
5 time-of-use prices are in effect except for  
6 certain peak days, when prices may reflect  
7 the costs of generating and/or purchasing  
8 electricity at the wholesale level and when  
9 consumers may receive additional discounts  
10 for reducing peak period energy consump-  
11 tion;

12 “(iii) real-time pricing whereby elec-  
13 tricity prices are set for a specific time pe-  
14 riod on an advanced or forward basis, re-  
15 flecting the utility’s cost of generating and/  
16 or purchasing electricity at the wholesale  
17 level, and may change as often as hourly;  
18 and

19 “(iv) credits for consumers with large  
20 loads who enter into pre-established peak  
21 load reduction agreements that reduce the  
22 planned capacity obligations of a utility.

23 “(C) Each electric utility subject to sub-  
24 paragraph (A) shall provide each customer re-  
25 questing a time-based rate with a time-based



meter capable of enabling the utility and customer to offer and receive such rate, respectively.

“(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

“(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

“(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).”.

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public

1 Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625)

2 is amended as follows:

3 (1) By inserting in subsection (b) after the  
4 phrase “the standard for time-of-day rates estab-  
5 lished by section 111(d)(3)” the following: “and the  
6 standard for time-based metering and communica-  
7 tions established by section 111(d)(14)”.

8 (2) By inserting in subsection (b) after the  
9 phrase “are likely to exceed the metering” the fol-  
10 lowing: “and communications”.

11 (3) By adding at the end the following:

12 “(i) TIME-BASED METERING AND COMMUNICA-  
13 TIONS.—In making a determination with respect to the  
14 standard established by section 111(d)(14), the investiga-  
15 tion requirement of section 111(d)(14)(F) shall be as fol-  
16 lows: Each State regulatory authority shall conduct an in-  
17 vestigation and issue a decision whether or not it is appro-  
18 priate for electric utilities to provide and install time-based  
19 meters and communications devices for each of their cus-  
20 tomers which enable such customers to participate in time-  
21 based pricing rate schedules and other demand response  
22 programs.”.

23 (c) FEDERAL ASSISTANCE ON DEMAND RE-  
24 SPONSE.—Section 132(a) of the Public Utility Regulatory  
25 Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by

1 striking “and” at the end of paragraph (3), striking the  
2 period at the end of paragraph (4) and inserting “; and”,  
3 and by adding the following at the end thereof:

4 “(5) technologies, techniques, and rate-making  
5 methods related to advanced metering and commu-  
6 nications and the use of these technologies, tech-  
7 niques and methods in demand response programs.”.

8 (d) FEDERAL GUIDANCE.—Section 132 of the Public  
9 Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642)  
10 is amended by adding the following at the end thereof:

11 “(d) DEMAND RESPONSE.—The Secretary shall be  
12 responsible for—

13 “(1) educating consumers on the availability,  
14 advantages, and benefits of advanced metering and  
15 communications technologies, including the funding  
16 of demonstration or pilot projects;

17 “(2) working with States, utilities, other energy  
18 providers and advanced metering and communica-  
19 tions experts to identify and address barriers to the  
20 adoption of demand response programs; and

21 “(3) not later than 180 days after the date of  
22 enactment of the Energy Policy Act of 2005, pro-  
23 viding Congress with a report that identifies and  
24 quantifies the national benefits of demand response

1       and makes a recommendation on achieving specific  
2       levels of such benefits by January 1, 2007.”.

3       (e) DEMAND RESPONSE AND REGIONAL COORDINA-  
4       TION.—

5               (1) IN GENERAL.—It is the policy of the United  
6       States to encourage States to coordinate, on a re-  
7       gional basis, State energy policies to provide reliable  
8       and affordable demand response services to the pub-  
9       lic.

10              (2) TECHNICAL ASSISTANCE.—The Secretary  
11       shall provide technical assistance to States and re-  
12       gional organizations formed by 2 or more States to  
13       assist them in—

14                      (A) identifying the areas with the greatest  
15       demand response potential;

16                      (B) identifying and resolving problems in  
17       transmission and distribution networks, includ-  
18       ing through the use of demand response;

19                      (C) developing plans and programs to use  
20       demand response to respond to peak demand or  
21       emergency needs; and

22                      (D) identifying specific measures con-  
23       sumers can take to participate in these demand  
24       response programs.

1           (3) REPORT.—Not later than 1 year after the  
2           date of enactment of this Act, the Commission shall  
3           prepare and publish an annual report, by appro-  
4           priate region, that assesses demand response re-  
5           sources, including those available from all consumer  
6           classes, and which identifies and reviews—

7                   (A) saturation and penetration rate of ad-  
8                   vanced meters and communications tech-  
9                   nologies, devices and systems;

10                   (B) existing demand response programs  
11                   and time-based rate programs;

12                   (C) the annual resource contribution of de-  
13                   mand resources;

14                   (D) the potential for demand response as  
15                   a quantifiable, reliable resource for regional  
16                   planning purposes;

17                   (E) steps taken to ensure that, in regional  
18                   transmission planning and operations, demand  
19                   resources are provided equitable treatment as a  
20                   quantifiable, reliable resource relative to the re-  
21                   source obligations of any load-serving entity,  
22                   transmission provider, or transmitting party;  
23                   and

1 (F) regulatory barriers to improved cus-  
2 tomer participation in demand response, peak  
3 reduction, and critical period pricing programs.

4 (f) FEDERAL ENCOURAGEMENT OF DEMAND RE-  
5 SPONSE DEVICES.—It is the policy of the United States  
6 that time-based pricing and other forms of demand re-  
7 sponse, whereby electricity customers are provided with  
8 electricity price signals and the ability to benefit by re-  
9 sponding to them, shall be encouraged, and the deploy-  
10 ment of such technology and devices that enable electricity  
11 customers to participate in such pricing and demand re-  
12 sponse systems shall be facilitated, and unnecessary bar-  
13 riers to demand response participation in energy, capacity,  
14 and ancillary service markets shall be eliminated. It is fur-  
15 ther the policy of the United States that the benefits of  
16 such demand response that accrue to those not deploying  
17 such technology and devices, but who are part of the same  
18 regional electricity entity, shall be recognized.

19 (g) TIME LIMITATIONS.—Section 112(b) of the Pub-  
20 lic Utility Regulatory Policies Act of 1978 (16 U.S.C.  
21 2622(b)) is amended by adding at the end the following:

22 “(4)(A) Not later than 1 year after the enact-  
23 ment of this paragraph, each State regulatory au-  
24 thority (with respect to each electric utility for which  
25 it has ratemaking authority) and each nonregulated

1 electric utility shall commence the consideration re-  
2 ferred to in section 111, or set a hearing date for  
3 such consideration, with respect to the standard es-  
4 tablished by paragraph (14) of section 111(d).

5 “(B) Not later than 2 years after the date of  
6 the enactment of this paragraph, each State regu-  
7 latory authority (with respect to each electric utility  
8 for which it has ratemaking authority), and each  
9 nonregulated electric utility, shall complete the con-  
10 sideration, and shall make the determination, re-  
11 ferred to in section 111 with respect to the standard  
12 established by paragraph (14) of section 111(d).”.

13 (h) FAILURE TO COMPLY.—Section 112(c) of the  
14 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.  
15 2622(c)) is amended by adding at the end the following:  
16 “In the case of the standard established by paragraph (14)  
17 of section 111(d), the reference contained in this sub-  
18 section to the date of enactment of this Act shall be  
19 deemed to be a reference to the date of enactment of such  
20 paragraph (14).”.

21 (i) PRIOR STATE ACTIONS REGARDING SMART ME-  
22 TERING STANDARDS.—

23 (1) IN GENERAL.—Section 112 of the Public  
24 Utility Regulatory Policies Act of 1978 (16 U.S.C.

1       2622) is amended by adding at the end the fol-  
2       lowing:

3       “(e) PRIOR STATE ACTIONS.—Subsections (b) and  
4       (c) of this section shall not apply to the standard estab-  
5       lished by paragraph (14) of section 111(d) in the case of  
6       any electric utility in a State if, before the enactment of  
7       this subsection—

8               “(1) the State has implemented for such utility  
9       the standard concerned (or a comparable standard);

10              “(2) the State regulatory authority for such  
11       State or relevant nonregulated electric utility has  
12       conducted a proceeding to consider implementation  
13       of the standard concerned (or a comparable stand-  
14       ard) for such utility within the previous 3 years; or

15              “(3) the State legislature has voted on the im-  
16       plementation of such standard (or a comparable  
17       standard) for such utility within the previous 3  
18       years.”.

19              (2) CROSS REFERENCE.—Section 124 of such  
20       Act (16 U.S.C. 2634) is amended by adding the fol-  
21       lowing at the end thereof: “In the case of the stand-  
22       ard established by paragraph (14) of section 111(d),  
23       the reference contained in this subsection to the date  
24       of enactment of this Act shall be deemed to be a ref-



1       erence to the date of enactment of such paragraph  
2       (14).”.

3       **SEC. 1253. COGENERATION AND SMALL POWER PRODUC-**  
4       **TION PURCHASE AND SALE REQUIREMENTS.**

5       (a) **TERMINATION OF MANDATORY PURCHASE AND**  
6       **SALE REQUIREMENTS.**—Section 210 of the Public Utility  
7       Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is  
8       amended by adding at the end the following:

9       “(m) **TERMINATION OF MANDATORY PURCHASE AND**  
10       **SALE REQUIREMENTS.**—

11       “(1) **OBLIGATION TO PURCHASE.**—After the  
12       date of enactment of this subsection, no electric util-  
13       ity shall be required to enter into a new contract or  
14       obligation to purchase electric energy from a quali-  
15       fying cogeneration facility or a qualifying small  
16       power production facility under this section if the  
17       Commission finds that the qualifying cogeneration  
18       facility or qualifying small power production facility  
19       has nondiscriminatory access to—

20       “(A)(i) independently administered, auc-  
21       tion-based day ahead and real time wholesale  
22       markets for the sale of electric energy; and (ii)  
23       wholesale markets for long-term sales of capac-  
24       ity and electric energy; or

“(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

“(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

“(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a

1 new contract or obligation to purchase from or sell  
 2 electric energy to a facility that is not an existing  
 3 qualifying cogeneration facility unless the facility  
 4 meets the criteria for qualifying cogeneration facili-  
 5 ties established by the Commission pursuant to the  
 6 rulemaking required by subsection (n).

7 “(B) For the purposes of this paragraph, the  
 8 term ‘existing qualifying cogeneration facility’ means  
 9 a facility that—

10 “(i) was a qualifying cogeneration facility  
 11 on the date of enactment of subsection (m); or

12 “(ii) had filed with the Commission a no-  
 13 tice of self-certification, self recertification or  
 14 an application for Commission certification  
 15 under 18 C.F.R. 292.207 prior to the date on  
 16 which the Commission issues the final rule re-  
 17 quired by subsection (n).

18 “(3) COMMISSION REVIEW.—Any electric utility  
 19 may file an application with the Commission for re-  
 20 lief from the mandatory purchase obligation pursu-  
 21 ant to this subsection on a service territory-wide  
 22 basis. Such application shall set forth the factual  
 23 basis upon which relief is requested and describe  
 24 why the conditions set forth in subparagraphs (A),  
 25 (B) or (C) of paragraph (1) of this subsection have

1        been met. After notice, including sufficient notice to  
2        potentially affected qualifying cogeneration facilities  
3        and qualifying small power production facilities, and  
4        an opportunity for comment, the Commission shall  
5        make a final determination within 90 days of such  
6        application regarding whether the conditions set  
7        forth in subparagraphs (A), (B) or (C) of paragraph  
8        (1) have been met.

9            “(4) REINSTATEMENT OF OBLIGATION TO PUR-  
10        CHASE.—At any time after the Commission makes a  
11        finding under paragraph (3) relieving an electric  
12        utility of its obligation to purchase electric energy,  
13        a qualifying cogeneration facility, a qualifying small  
14        power production facility, a State agency, or any  
15        other affected person may apply to the Commission  
16        for an order reinstating the electric utility’s obliga-  
17        tion to purchase electric energy under this section.  
18        Such application shall set forth the factual basis  
19        upon which the application is based and describe  
20        why the conditions set forth in subparagraphs (A),  
21        (B) or (C) of paragraph (1) of this subsection are  
22        no longer met. After notice, including sufficient no-  
23        tice to potentially affected utilities, and opportunity  
24        for comment, the Commission shall issue an order  
25        within 90 days of such application reinstating the

1 electric utility's obligation to purchase electric en-  
2 ergy under this section if the Commission finds that  
3 the conditions set forth in subparagraphs (A), (B) or  
4 (C) of paragraph (1) which relieved the obligation to  
5 purchase, are no longer met.

6 “(5) OBLIGATION TO SELL.—After the date of  
7 enactment of this subsection, no electric utility shall  
8 be required to enter into a new contract or obliga-  
9 tion to sell electric energy to a qualifying cogenera-  
10 tion facility or a qualifying small power production  
11 facility under this section if the Commission finds  
12 that—

13 “(A) competing retail electric suppliers are  
14 willing and able to sell and deliver electric en-  
15 ergy to the qualifying cogeneration facility or  
16 qualifying small power production facility; and

17 “(B) the electric utility is not required by  
18 State law to sell electric energy in its service  
19 territory.

20 “(6) NO EFFECT ON EXISTING RIGHTS AND  
21 REMEDIES.—Nothing in this subsection affects the  
22 rights or remedies of any party under any contract  
23 or obligation, in effect or pending approval before  
24 the appropriate State regulatory authority or non-  
25 regulated electric utility on the date of enactment of

1       this subsection, to purchase electric energy or capac-  
 2       ity from or to sell electric energy or capacity to a  
 3       qualifying cogeneration facility or qualifying small  
 4       power production facility under this Act (including  
 5       the right to recover costs of purchasing electric en-  
 6       ergy or capacity).

7               “(7) RECOVERY OF COSTS.—(A) The Commis-  
 8       sion shall issue and enforce such regulations as are  
 9       necessary to ensure that an electric utility that pur-  
 10      chases electric energy or capacity from a qualifying  
 11      cogeneration facility or qualifying small power pro-  
 12      duction facility in accordance with any legally en-  
 13      forceable obligation entered into or imposed under  
 14      this section recovers all prudently incurred costs as-  
 15      sociated with the purchase.

16              “(B) A regulation under subparagraph (A) shall  
 17      be enforceable in accordance with the provisions of  
 18      law applicable to enforcement of regulations under  
 19      the Federal Power Act (16 U.S.C. 791a et seq.).

20              “(n) RULEMAKING FOR NEW QUALIFYING FACILI-  
 21      TIES.—(1)(A) Not later than 180 days after the date of  
 22      enactment of this section, the Commission shall issue a  
 23      rule revising the criteria in 18 C.F.R. 292.205 for new  
 24      qualifying cogeneration facilities seeking to sell electric en-  
 25      ergy pursuant to section 210 of this Act to ensure—

1           “(i) that the thermal energy output of a new  
2           qualifying cogeneration facility is used in a produc-  
3           tive and beneficial manner;

4           “(ii) the electrical, thermal, and chemical out-  
5           put of the cogeneration facility is used fundamen-  
6           tally for industrial, commercial, or institutional pur-  
7           poses and is not intended fundamentally for sale to  
8           an electric utility, taking into account technological,  
9           efficiency, economic, and variable thermal energy re-  
10          quirements, as well as State laws applicable to sales  
11          of electric energy from a qualifying facility to its  
12          host facility; and

13          “(iii) continuing progress in the development of  
14          efficient electric energy generating technology.

15          “(B) The rule issued pursuant to section (n)(1)(A)  
16          shall be applicable only to facilities that seek to sell electric  
17          energy pursuant to section 210 of this Act. For all other  
18          purposes, except as specifically provided in section  
19          (m)(2)(A), qualifying facility status shall be determined  
20          in accordance with the rules and regulations of this Act.

21          “(2) Notwithstanding rule revisions under paragraph  
22          (1), the Commission’s criteria for qualifying cogeneration  
23          facilities in effect prior to the date on which the Commis-  
24          sion issues the final rule required by paragraph (1) shall  
25          continue to apply to any cogeneration facility that—

1           “(A) was a qualifying cogeneration facility on  
2           the date of enactment of subsection (m), or

3           “(B) had filed with the Commission a notice of  
4           self-certification, self-recertification or an application  
5           for Commission certification under 18 C.F.R.  
6           292.207 prior to the date on which the Commission  
7           issues the final rule required by paragraph (1).”.

8           (b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

9           (1) QUALIFYING SMALL POWER PRODUCTION  
10          FACILITY.—Section 3(17)(C) of the Federal Power  
11          Act (16 U.S.C. 796(17)(C)) is amended to read as  
12          follows:

13                 “(C) ‘qualifying small power production fa-  
14                 cility’ means a small power production facility  
15                 that the Commission determines, by rule, meets  
16                 such requirements (including requirements re-  
17                 specting fuel use, fuel efficiency, and reliability)  
18                 as the Commission may, by rule, prescribe;”.

19          (2) QUALIFYING COGENERATION FACILITY.—  
20          Section 3(18)(B) of the Federal Power Act (16  
21          U.S.C. 796(18)(B)) is amended to read as follows:

22                 “(B) ‘qualifying cogeneration facility’  
23                 means a cogeneration facility that the Commis-  
24                 sion determines, by rule, meets such require-  
25                 ments (including requirements respecting min-



1           imum size, fuel use, and fuel efficiency) as the  
 2           Commission may, by rule, prescribe;”.

3 **SEC. 1254. INTERCONNECTION.**

4           (a) ADOPTION OF STANDARDS.—Section 111(d) of  
 5 the Public Utility Regulatory Policies Act of 1978 (16  
 6 U.S.C. 2621(d)) (as amended by section 1252(a)) is  
 7 amended by adding at the end the following:

8           “(15) INTERCONNECTION.—(A) In this para-  
 9 graph, the term ‘interconnection service’ means serv-  
 10 ice to an electric consumer by which an on-site gen-  
 11 erating facility on the premises of the electric con-  
 12 sumer is connected to the local distribution facilities.

13           “(B)(i) Each electric utility shall make avail-  
 14 able, on request, interconnection service to any elec-  
 15 tric consumer that the electric utility serves.

16           “(ii) Interconnection services shall be made  
 17 available under clause (i) based on the standards de-  
 18 veloped by the Institute of Electrical and Electronics  
 19 Engineers, entitled “IEEE Standard 1547 for Inter-  
 20 connecting Distributed Resources with Electric  
 21 Power Systems” (or successor standards).

22           “(C)(i) Electric utilities shall establish agree-  
 23 ments and procedures providing that the inter-  
 24 connection services made available under subpara-  
 25 graph (B) promote current best practices of inter-

1 connection for distributed generation, including  
 2 practices stipulated in model codes adopted by asso-  
 3 ciations of State regulatory agencies.

4 “(ii) Any agreements and procedures estab-  
 5 lished under clause (i) shall be just and reasonable  
 6 and not unduly discriminatory or preferential.”.

7 (b) COMPLIANCE.—

8 (1) TIME LIMITATIONS.—Section 112(b) of the  
 9 Public Utility Regulatory Policies Act of 1978 (16  
 10 U.S.C. 2622(b)) (as amended by section 1252(g)) is  
 11 amended by adding at the end the following:

12 “(5)(A) Not later than 1 year after the date of  
 13 enactment of this paragraph, each State regulatory  
 14 authority (with respect to each electric utility for  
 15 which the State regulatory authority has ratemaking  
 16 authority) and each nonregulated utility shall, with  
 17 respect to the standard established by section  
 18 111(d)(15)—

19 “(i) commence the consideration under sec-  
 20 tion 111(a); or

21 “(ii) set a hearing date for the consider-  
 22 ation.

23 “(B) Not later than 2 years after the date of  
 24 enactment of this paragraph, each State regulatory  
 25 authority (with respect to each electric utility for

1       which the State regulatory authority has ratemaking  
 2       authority) and each nonregulated electric utility  
 3       shall, with respect to the standard established by  
 4       section 111(d)(15), complete the consideration and  
 5       make the determination under section 111(a).”.

6           (2) FAILURE TO COMPLY.—Section 112(c) of  
 7       the Public Utility Regulatory Policies Act of 1978  
 8       (16 U.S.C. 2622(c)) (as amended by section  
 9       1252(h)) is amended by adding at the end the fol-  
 10      lowing: “In the case of the standard established by  
 11      paragraph (15), the reference contained in this sub-  
 12      section to the date of enactment of this Act shall be  
 13      considered to be a reference to the date of enact-  
 14      ment of paragraph (15).”.

15           (3) PRIOR STATE ACTIONS.—

16           (A) IN GENERAL.—Section 112(e) of the  
 17       Public Utility Regulatory Policies Act of 1978  
 18       (as added by section 1252(i)(1)) is amended by  
 19       striking “paragraph 14” and inserting “para-  
 20       graph (14) or (15)”.

21           (B) CONFORMING AMENDMENT.—Section  
 22       124 of the Public Utility Regulatory Policies  
 23       Act of 1978 (16 U.S.C. 2634) (as amended by  
 24       section 1252(i)(2)) is amended by adding at the  
 25       end the following: “In the case of each standard

1           established by section 111(d)(15), the reference  
 2           contained in this section to the date of enact-  
 3           ment of the Act shall be considered to be a ref-  
 4           erence to the date of enactment of paragraph  
 5           (15).”.

6   **Subtitle F—Market Transparency,**  
 7       **Enforcement, and Consumer**  
 8       **Protection**

9   **SEC. 1261. MARKET TRANSPARENCY RULES.**

10       Part II of the Federal Power Act (16 U.S.C. 824 et  
 11   seq.) (as amended by section 1241) is amended by adding  
 12   at the end the following:

13   **“SEC. 221. MARKET TRANSPARENCY RULES.**

14       “(a) IN GENERAL.—The Commission may issue such  
 15   rules as the Commission considers to be appropriate to  
 16   establish an electronic information system to provide the  
 17   Commission and the public with access to such informa-  
 18   tion as is necessary or appropriate to facilitate price trans-  
 19   parency and participation in markets for the sale in inter-  
 20   state commerce of electric energy at wholesale.

21       “(b) INFORMATION TO BE MADE AVAILABLE.—(1)  
 22   The system under subsection (a) shall provide, on a timely  
 23   basis, information about the availability and market price  
 24   of wholesale electric energy and transmission services to  
 25   the Commission, State commissions, buyers and sellers of

1 wholesale electric energy, users of transmission services,  
2 and the public.

3 “(2) In determining the information to be made avail-  
4 able under the system and the time at which to make such  
5 information available, the Commission shall seek to ensure  
6 that consumers and competitive markets are protected  
7 from the adverse effects of potential collusion or other  
8 anticompetitive behaviors that can be facilitated by un-  
9 timely public disclosure of transaction-specific informa-  
10 tion.

11 “(c) AUTHORITY TO OBTAIN INFORMATION.—The  
12 Commission shall have authority to obtain information de-  
13 scribed in subsections (a) and (b) from any electric utility  
14 or transmitting utility (including any entity described in  
15 section 201(f)).

16 “(d) EXEMPTIONS.—The rules of the Commission, if  
17 adopted, shall exempt from disclosure information that the  
18 Commission determines would, if disclosed—

19 “(1) be detrimental to the operation of an effec-  
20 tive market; or

21 “(2) jeopardize system security.

22 “(e) COMMODITY FUTURES TRADING COMMIS-  
23 SION.—(1) This section shall not affect the exclusive juris-  
24 diction of the Commodity Futures Trading Commission  
25 with respect to accounts, agreements, contracts, or trans-

1 actions in commodities under the Commodity Exchange  
2 Act (7 U.S.C. 1 et seq.).

3 “(2) Any request for information to a designated con-  
4 tract market, registered derivatives transaction execution  
5 facility, board of trade, exchange, or market involving an  
6 account, agreement, contract, or transaction in a com-  
7 modity (including natural gas, electricity and other energy  
8 commodities) within the exclusive jurisdiction of the Com-  
9 modity Futures Trading Commission shall be directed to  
10 the Commodity Futures Trading Commission, which shall  
11 cooperate in responding to any information request by the  
12 Commission.

13 “(f) SAVINGS PROVISION.—In exercising authority  
14 under this section, the Commission shall not—

15 “(1) compete with, or displace from the market  
16 place, any price publisher (including any electronic  
17 price publisher); or

18 “(2) regulate price publishers (including any  
19 electronic price publisher) or impose any require-  
20 ments on the publication of information by price  
21 publishers (including any electronic price publisher).

22 “(g) ERCOT.—This section shall not apply to a  
23 transaction for the purchase or sale of wholesale electric  
24 energy or transmission services within the area described  
25 in section 212(k)(2)(A).”.

1 **SEC. 1262. FALSE STATEMENTS.**

2 Part II of the Federal Power Act (16 U.S.C. 824 et  
3 seq.) (as amended by section 1261) is amended by adding  
4 at the end the following:

5 **“SEC. 222. PROHIBITION ON FILING FALSE INFORMATION.**

6 “No entity (including an entity described in section  
7 201(f)) shall willfully and knowingly report any informa-  
8 tion relating to the price of electricity sold at wholesale  
9 or the availability of transmission capacity, which informa-  
10 tion the person or any other entity knew to be false at  
11 the time of the reporting, to a Federal agency with intent  
12 to fraudulently affect the data being compiled by the Fed-  
13 eral agency.”.

14 **SEC. 1263. MARKET MANIPULATION.**

15 Part II of the Federal Power Act (16 U.S.C. 824 et  
16 seq.) (as amended by section 1262) is amended by adding  
17 at the end the following:

18 **“SEC. 223. PROHIBITION OF ENERGY MARKET MANIPULA-**  
19 **TION.**

20 “It shall be unlawful for any entity (including an en-  
21 tity described in section 201(f)), directly or indirectly, to  
22 use or employ, in connection with the purchase or sale of  
23 electric energy or the purchase or sale of transmission  
24 services subject to the jurisdiction of the Commission, any  
25 manipulative or deceptive device or contrivance (as those  
26 terms are used in section 10(b) of the Securities Exchange

1 Act of 1934 (15 U.S.C. 78j(b))), in contravention of such  
 2 rules and regulations as the Commission may prescribe as  
 3 necessary or appropriate in the public interest or for the  
 4 protection of electric ratepayers.”.

5 **SEC. 1264. ENFORCEMENT.**

6 (a) COMPLAINTS.—Section 306 of the Federal Power  
 7 Act (16 U.S.C. 825e) is amended—

8 (1) by inserting “electric utility,” after “Any  
 9 person,”; and

10 (2) by inserting “, transmitting utility,” after  
 11 “licensee” each place it appears.

12 (b) INVESTIGATIONS.—Section 307(a) of the Federal  
 13 Power Act (16 U.S.C. 825f(a)) is amended—

14 (1) by inserting “, electric utility, transmitting  
 15 utility, or other entity” after “person” each place it  
 16 appears; and

17 (2) in the first sentence, by inserting before the  
 18 period at the end the following: “, or in obtaining in-  
 19 formation about the sale of electric energy at whole-  
 20 sale in interstate commerce and the transmission of  
 21 electric energy in interstate commerce”.

22 (c) REVIEW OF COMMISSION ORDERS.—Section  
 23 313(a) of the Federal Power Act (16 U.S.C. 825l) is  
 24 amended by inserting “electric utility,” after “person,” in  
 25 the first 2 places it appears and by striking “any person



1 unless such person” and inserting “any entity unless such  
2 entity”.

3 (d) CRIMINAL PENALTIES.—Section 316 of the Fed-  
4 eral Power Act (16 U.S.C. 825o) is amended—

5 (1) in subsection (a)—

6 (A) by striking “\$5,000” and inserting  
7 “\$1,000,000”; and

8 (B) by striking “two years” and inserting  
9 “5 years”;

10 (2) in subsection (b), by striking “\$500” and  
11 inserting “\$25,000”; and

12 (3) by striking subsection (c).

13 (e) CIVIL PENALTIES.—Section 316A of the Federal  
14 Power Act (16 U.S.C. 825o–1) is amended—

15 (1) by striking “section 211, 212, 213, or 214”  
16 each place it appears and inserting “part II”; and

17 (2) in subsection (b), by striking “\$10,000”  
18 and inserting “\$1,000,000”.

19 **SEC. 1265. REFUND EFFECTIVE DATE.**

20 Section 206(b) of the Federal Power Act (16 U.S.C.  
21 824e(b)) is amended—

22 (1) by striking “the date 60 days after the fil-  
23 ing of such complaint nor later than 5 months after  
24 the expiration of such 60-day period” in the second  
25 sentence and inserting “the date of the filing of such

1 complaint nor later than 5 months after the filing of  
2 such complaint”;

3 (2) by striking “60 days after” in the third sen-  
4 tence and inserting “of”;

5 (3) by striking “expiration of such 60-day pe-  
6 riod” in the third sentence and inserting “publica-  
7 tion date”; and

8 (4) by striking the fifth sentence and inserting  
9 the following: “If no final decision is rendered by the  
10 conclusion of the 180-day period commencing upon  
11 initiation of a proceeding pursuant to this section,  
12 the Commission shall state the reasons why it has  
13 failed to do so and shall state its best estimate as  
14 to when it reasonably expects to make such deci-  
15 sion.”.

16 **SEC. 1266. REFUND AUTHORITY.**

17 Section 206 of the Federal Power Act (16 U.S.C.  
18 824e) is amended by adding at the end the following:

19 “(e)(1) In this subsection:

20 “(A) The term ‘short-term sale’ means an  
21 agreement for the sale of electric energy at wholesale  
22 in interstate commerce that is for a period of 48  
23 hours or less.

24 “(B) The term ‘applicable Commission rule’  
25 means a Commission rule applicable to sales at

1        wholesale by public utilities that the Commission de-  
2        termines after notice and comment should also be  
3        applicable to entities subject to this subsection.

4        “(2) If an entity described in section 201(f) volun-  
5        tarily makes a short-term sale of electric energy through  
6        an organized market in which the rates for the sale are  
7        established by Commission-approved tariff (rather than by  
8        contract) and the sale violates the terms of the tariff or  
9        applicable Commission rules in effect at the time of the  
10      sale, the entity shall be subject to the refund authority  
11      of the Commission under this section with respect to the  
12      violation.

13      “(3) This section shall not apply to—

14              “(A) any entity that sells in total (including af-  
15              filiates of the entity) less than 8,000,000 megawatt  
16              hours of electricity per year; or

17              “(B) any electric cooperative.

18      “(4)(A) The Commission shall have refund authority  
19      under paragraph (2) with respect to a voluntary short-  
20      term sale of electric energy by the Bonneville Power Ad-  
21      ministration only if the sale is at an unjust and unreason-  
22      able rate.

23              “(B) The Commission may order a refund under sub-  
24      paragraph (A) only for short-term sales made by the Bon-  
25      neville Power Administration at rates that are higher than

1 the highest just and reasonable rate charged by any other  
 2 entity for a short-term sale of electric energy in the same  
 3 geographic market for the same, or most nearly com-  
 4 parable, period as the sale by the Bonneville Power Ad-  
 5 ministration.

6 “(5) In the case of any Federal power marketing  
 7 agency or the Tennessee Valley Authority, the Commission  
 8 shall not assert or exercise any regulatory authority or  
 9 power under paragraph (2) other than the ordering of re-  
 10 funds to achieve a just and reasonable rate.”.

11 **SEC. 1267. CONSUMER PRIVACY AND UNFAIR TRADE PRAC-**  
 12 **TICES.**

13 (a) DEFINITIONS.—In this section:

14 (1) COMMISSION.—The term “Commission”  
 15 means the Federal Trade Commission.

16 (2) STATE REGULATORY AUTHORITY.—The  
 17 term “State regulatory authority” has the meaning  
 18 given the term in section 3 of the Federal Power Act  
 19 (16 U.S.C. 796).

20 (3) ELECTRIC CONSUMER; ELECTRIC UTIL-  
 21 ITY.—The terms “electric consumer” and “electric  
 22 utility” have the meanings given those terms in sec-  
 23 tion 3 of the Public Utility Regulatory Policies Act  
 24 of 1978 (16 U.S.C. 2602).

1 (b) PRIVACY.—The Commission may issue rules pro-  
2 tecting the privacy of electric consumers from the discolo-  
3 sure of consumer information obtained in connection with  
4 the sale or delivery of electric energy to electric consumers.

5 (c) SLAMMING.—The Commission may issue rules  
6 prohibiting the change of selection of an electric utility ex-  
7 cept with the informed consent of the electric consumer  
8 or if approved by the appropriate State regulatory author-  
9 ity.

10 (d) CRAMMING.—The Commission may issue rules  
11 prohibiting the sale of goods and services to an electric  
12 consumer unless expressly authorized by law or the electric  
13 consumer.

14 (e) RULEMAKING.—The Commission shall proceed in  
15 accordance with section 553 of title 5, United States Code,  
16 when prescribing a rule under this section.

17 (f) STATE AUTHORITY.—If the Commission deter-  
18 mines that the regulations of a State provide equivalent  
19 or greater protection than the protection provided under  
20 this section, the regulations of the State shall apply in that  
21 State in lieu of the regulations issued by the Commission  
22 under this section.

23 **SEC. 1268. OFFICE OF CONSUMER ADVOCACY.**

24 (a) DEFINITIONS.—In this section:

1           (1) ENERGY CUSTOMER.—The term “energy  
2       customer” means a residential customer or a small  
3       commercial customer that receives products or serv-  
4       ices from a public utility or natural gas company  
5       under the jurisdiction of the Commission.

6           (2) NATURAL GAS COMPANY.—The term “nat-  
7       ural gas company” has the meaning given the term  
8       in section 2 of the Natural Gas Act (15 U.S.C.  
9       717a), as modified by section 601(a) of the Natural  
10      Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

11          (3) OFFICE.—The term “Office” means the Of-  
12      fice of Consumer Advocacy established by subsection  
13      (b)(1).

14          (4) PUBLIC UTILITY.—The term “public util-  
15      ity” has the meaning given the term in section  
16      201(e) of the Federal Power Act (16 U.S.C. 824(e)).

17          (5) SMALL COMMERCIAL CUSTOMER.—The term  
18      “small commercial customer” means a commercial  
19      customer that has a peak demand of not more than  
20      1,000 kilowatts per hour.

21      (b) OFFICE.—

22          (1) ESTABLISHMENT.—There is established  
23      within the Department the Office of Consumer Ad-  
24      vocacy.

1           (2) DUTIES.—The Office may represent the in-  
 2           terests of energy customers on matters concerning  
 3           rates or service of public utilities and natural gas  
 4           companies under the jurisdiction of the Commis-  
 5           sion—

6                   (A) at hearings of the Commission;

7                   (B) in civil actions brought in connection  
 8           with any function carried out by the Commis-  
 9           sion, except as provided in section 518 of title  
 10          28, United States Code; and

11                  (C) at hearings or proceedings of other  
 12          Federal regulatory agencies and commissions.

13 **SEC. 1269. AUTHORITY OF COURT TO PROHIBIT PERSONS**  
 14 **FROM SERVING AS OFFICERS, DIRECTORS,**  
 15 **AND ENERGY TRADERS.**

16          Section 314 of the Federal Power Act (16 U.S.C.  
 17          825m) is amended by adding at the end the following:

18          “(d) In any proceedings under subsection (a), the  
 19          court may prohibit, conditionally or unconditionally, and  
 20          permanently or for such period of time as the court deter-  
 21          mines, any person who is engaged or has engaged in prac-  
 22          tices constituting a violation of section 222 (and related  
 23          rules and regulations) from—

24                  “(1) acting as an officer or director of an elec-  
 25          tric utility; or

1           “(2) engaging in the business of purchasing or  
2       selling—

3           “(A) electric energy; or

4           “(B) transmission services subject to the  
5       jurisdiction of the Commission.”.

6   **SEC. 1270. RELIEF FOR EXTRAORDINARY VIOLATIONS.**

7       (a) APPLICATION.—This section applies to any con-  
8       tract entered into the Western Interconnection prior to  
9       June 20, 2001, with a seller of wholesale electricity that  
10      the Commission has—

11           (1) found to have manipulated the electricity  
12      market resulting in unjust and unreasonable rates;  
13      and

14           (2) revoked the seller’s authority to sell any  
15      electricity at market-based rates.

16      (b) RELIEF.—Notwithstanding section 222 of the  
17      Federal Power Act (as added by section 1262), any provi-  
18      sion of title 11, United States Code, or any other provision  
19      of law, in the case of a contract described in subsection  
20      (a), the Commission shall have exclusive jurisdiction under  
21      the Federal Power Act (16 U.S.C. 791a et seq.) to deter-  
22      mine whether a requirement to make termination pay-  
23      ments for power not delivered by the seller, or any suc-  
24      cessor in interest of the seller, is unlawful on the grounds  
25      that it is unjust and unreasonable.



1 (c) APPLICABILITY.—This section applies to any pro-  
 2 ceeding pending on the date of enactment of this section  
 3 involving a seller described in subsection (a) in which there  
 4 is not a final, nonappealable order by the Commission or  
 5 any other jurisdiction determining the respective rights of  
 6 the seller.

## 7 **Subtitle G—Repeal of PUHCA and** 8 **Merger Reform**

### 9 **SEC. 1271. SHORT TITLE.**

10 This subtitle may be cited as the “Public Utility  
 11 Holding Company Act of 2005”.

### 12 **SEC. 1272. DEFINITIONS.**

13 For purposes of this subtitle:

14 (1) AFFILIATE.—The term “affiliate” of a com-  
 15 pany means any company, 5 percent or more of the  
 16 outstanding voting securities of which are owned,  
 17 controlled, or held with power to vote, directly or in-  
 18 directly, by such company.

19 (2) ASSOCIATE COMPANY.—The term “associate  
 20 company” of a company means any company in the  
 21 same holding company system with such company.

22 (3) COMMISSION.—The term “Commission”  
 23 means the Federal Energy Regulatory Commission.

24 (4) COMPANY.—The term “company” means a  
 25 corporation, partnership, association, joint stock

1 company, business trust, or any organized group of  
2 persons, whether incorporated or not, or a receiver,  
3 trustee, or other liquidating agent of any of the fore-  
4 going.

5 (5) ELECTRIC UTILITY COMPANY.—The term  
6 “electric utility company” means any company that  
7 owns or operates facilities used for the generation,  
8 transmission, or distribution of electric energy for  
9 sale.

10 (6) EXEMPT WHOLESALE GENERATOR AND  
11 FOREIGN UTILITY COMPANY.—The terms “exempt  
12 wholesale generator” and “foreign utility company”  
13 have the same meanings as in sections 32 and 33,  
14 respectively, of the Public Utility Holding Company  
15 Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those  
16 sections existed on the day before the effective date  
17 of this subtitle.

18 (7) GAS UTILITY COMPANY.—The term “gas  
19 utility company” means any company that owns or  
20 operates facilities used for distribution at retail  
21 (other than the distribution only in enclosed portable  
22 containers or distribution to tenants or employees of  
23 the company operating such facilities for their own  
24 use and not for resale) of natural or manufactured  
25 gas for heat, light, or power.

1           (8) HOLDING COMPANY.—The term “holding  
2   company” means—

3           (A) any company that directly or indirectly  
4           owns, controls, or holds, with power to vote, 10  
5           percent or more of the outstanding voting secu-  
6           rities of a public-utility company or of a holding  
7           company of any public-utility company; and

8           (B) any person, determined by the Com-  
9           mission, after notice and opportunity for hear-  
10          ing, to exercise directly or indirectly (either  
11          alone or pursuant to an arrangement or under-  
12          standing with 1 or more persons) such a con-  
13          trolling influence over the management or poli-  
14          cies of any public-utility company or holding  
15          company as to make it necessary or appropriate  
16          for the rate protection of utility customers with  
17          respect to rates that such person be subject to  
18          the obligations, duties, and liabilities imposed  
19          by this subtitle upon holding companies.

20          (9) HOLDING COMPANY SYSTEM.—The term  
21          “holding company system” means a holding com-  
22          pany, together with its subsidiary companies.

23          (10) JURISDICTIONAL RATES.—The term “ju-  
24          risdictional rates” means rates accepted or estab-  
25          lished by the Commission for the transmission of

1 electric energy in interstate commerce, the sale of  
2 electric energy at wholesale in interstate commerce,  
3 the transportation of natural gas in interstate com-  
4 merce, and the sale in interstate commerce of nat-  
5 ural gas for resale for ultimate public consumption  
6 for domestic, commercial, industrial, or any other  
7 use.

8 (11) NATURAL GAS COMPANY.—The term “nat-  
9 ural gas company” means a person engaged in the  
10 transportation of natural gas in interstate commerce  
11 or the sale of such gas in interstate commerce for  
12 resale.

13 (12) PERSON.—The term “person” means an  
14 individual or company.

15 (13) PUBLIC UTILITY.—The term “public util-  
16 ity” means any person who owns or operates facili-  
17 ties used for transmission of electric energy in inter-  
18 state commerce or sales of electric energy at whole-  
19 sale in interstate commerce.

20 (14) PUBLIC-UTILITY COMPANY.—The term  
21 “public-utility company” means an electric utility  
22 company or a gas utility company.

23 (15) STATE COMMISSION.—The term “State  
24 commission” means any commission, board, agency,  
25 or officer, by whatever name designated, of a State,

1       municipality, or other political subdivision of a State  
2       that, under the laws of such State, has jurisdiction  
3       to regulate public utility companies.

4           (16) SUBSIDIARY COMPANY.—The term “sub-  
5       sidiary company” of a holding company means—

6           (A) any company, 10 percent or more of  
7       the outstanding voting securities of which are  
8       directly or indirectly owned, controlled, or held  
9       with power to vote, by such holding company;  
10      and

11          (B) any person, the management or poli-  
12      cies of which the Commission, after notice and  
13      opportunity for hearing, determines to be sub-  
14      ject to a controlling influence, directly or indi-  
15      rectly, by such holding company (either alone or  
16      pursuant to an arrangement or understanding  
17      with 1 or more other persons) so as to make it  
18      necessary for the rate protection of utility cus-  
19      tomers with respect to rates that such person  
20      be subject to the obligations, duties, and liabil-  
21      ities imposed by this subtitle upon subsidiary  
22      companies of holding companies.

23          (17) VOTING SECURITY.—The term “voting se-  
24      curity” means any security presently entitling the

1 owner or holder thereof to vote in the direction or  
2 management of the affairs of a company.

3 **SEC. 1273. REPEAL OF THE PUBLIC UTILITY HOLDING COM-**  
4 **PANY ACT OF 1935.**

5 The Public Utility Holding Company Act of 1935 (15  
6 U.S.C. 79 et seq.) is repealed.

7 **SEC. 1274. FEDERAL ACCESS TO BOOKS AND RECORDS.**

8 (a) IN GENERAL.—Each holding company and each  
9 associate company thereof shall maintain, and shall make  
10 available to the Commission, such books, accounts, memo-  
11 randa, and other records as the Commission determines  
12 are relevant to costs incurred by a public utility or natural  
13 gas company that is an associate company of such holding  
14 company and necessary or appropriate for the protection  
15 of utility customers with respect to jurisdictional rates.

16 (b) AFFILIATE COMPANIES.—Each affiliate of a hold-  
17 ing company or of any subsidiary company of a holding  
18 company shall maintain, and shall make available to the  
19 Commission, such books, accounts, memoranda, and other  
20 records with respect to any transaction with another affil-  
21 iate, as the Commission determines are relevant to costs  
22 incurred by a public utility or natural gas company that  
23 is an associate company of such holding company and nec-  
24 essary or appropriate for the protection of utility cus-  
25 tomers with respect to jurisdictional rates.

1       (c) HOLDING COMPANY SYSTEMS.—The Commission  
 2 may examine the books, accounts, memoranda, and other  
 3 records of any company in a holding company system, or  
 4 any affiliate thereof, as the Commission determines are  
 5 relevant to costs incurred by a public utility or natural  
 6 gas company within such holding company system and  
 7 necessary or appropriate for the protection of utility cus-  
 8 tomers with respect to jurisdictional rates.

9       (d) CONFIDENTIALITY.—No member, officer, or em-  
 10 ployee of the Commission shall divulge any fact or infor-  
 11 mation that may come to his or her knowledge during the  
 12 course of examination of books, accounts, memoranda, or  
 13 other records as provided in this section, except as may  
 14 be directed by the Commission or by a court of competent  
 15 jurisdiction.

16 **SEC. 1275. STATE ACCESS TO BOOKS AND RECORDS.**

17       (a) IN GENERAL.—Upon the written request of a  
 18 State commission having jurisdiction to regulate a public-  
 19 utility company in a holding company system, the holding  
 20 company or any associate company or affiliate thereof,  
 21 other than such public-utility company, wherever located,  
 22 shall produce for inspection books, accounts, memoranda,  
 23 and other records that—

24               (1) have been identified in reasonable detail in  
 25       a proceeding before the State commission;

1           (2) the State commission determines are rel-  
2       evant to costs incurred by such public-utility com-  
3       pany; and

4           (3) are necessary for the effective discharge of  
5       the responsibilities of the State commission with re-  
6       spect to such proceeding.

7       (b) LIMITATION.—Subsection (a) does not apply to  
8       any person that is a holding company solely by reason of  
9       ownership of 1 or more qualifying facilities under the Pub-  
10      lic Utility Regulatory Policies Act of 1978 (16 U.S.C.  
11      2601 et seq.).

12      (c) CONFIDENTIALITY OF INFORMATION.—The pro-  
13      duction of books, accounts, memoranda, and other records  
14      under subsection (a) shall be subject to such terms and  
15      conditions as may be necessary and appropriate to safe-  
16      guard against unwarranted disclosure to the public of any  
17      trade secrets or sensitive commercial information.

18      (d) EFFECT ON STATE LAW.—Nothing in this sec-  
19      tion shall preempt applicable State law concerning the pro-  
20      vision of books, accounts, memoranda, and other records,  
21      or in any way limit the rights of any State to obtain books,  
22      accounts, memoranda, and other records under any other  
23      Federal law, contract, or otherwise.

24      (e) COURT JURISDICTION.—Any United States dis-  
25      trict court located in the State in which the State commis-



1 sion referred to in subsection (a) is located shall have ju-  
 2 risdiction to enforce compliance with this section.

3 **SEC. 1276. EXEMPTION AUTHORITY.**

4 (a) RULEMAKING.—Not later than 90 days after the  
 5 effective date of this subtitle, the Commission shall issue  
 6 a final rule to exempt from the requirements of section  
 7 1274 (relating to Federal access to books and records) any  
 8 person that is a holding company, solely with respect to  
 9 1 or more—

10 (1) qualifying facilities under the Public Utility  
 11 Regulatory Policies Act of 1978 (16 U.S.C. 2601 et  
 12 seq.);

13 (2) exempt wholesale generators; or

14 (3) foreign utility companies.

15 (b) OTHER AUTHORITY.—The Commission shall ex-  
 16 empt a person or transaction from the requirements of  
 17 section 1274 (relating to Federal access to books and  
 18 records) if, upon application or upon the motion of the  
 19 Commission—

20 (1) the Commission finds that the books, ac-  
 21 counts, memoranda, and other records of any person  
 22 are not relevant to the jurisdictional rates of a pub-  
 23 lic utility or natural gas company; or

1           (2) the Commission finds that any class of  
2           transactions is not relevant to the jurisdictional  
3           rates of a public utility or natural gas company.

4   **SEC. 1277. AFFILIATE TRANSACTIONS.**

5           (a) COMMISSION AUTHORITY UNAFFECTED.—Noth-  
6           ing in this subtitle shall limit the authority of the Commis-  
7           sion under the Federal Power Act (16 U.S.C. 791a et seq.)  
8           to require that jurisdictional rates are just and reasonable,  
9           including the ability to deny or approve the pass through  
10          of costs, the prevention of cross-subsidization, and the  
11          issuance of such rules and regulations as are necessary  
12          or appropriate for the protection of utility consumers.

13          (b) RECOVERY OF COSTS.—Nothing in this subtitle  
14          shall preclude the Commission or a State commission from  
15          exercising its jurisdiction under otherwise applicable law  
16          to determine whether a public-utility company, public util-  
17          ity, or natural gas company may recover in rates any costs  
18          of an activity performed by an associate company, or any  
19          costs of goods or services acquired by such public-utility  
20          company from an associate company.

21   **SEC. 1278. APPLICABILITY.**

22          Except as otherwise specifically provided in this sub-  
23          title, no provision of this subtitle shall apply to, or be  
24          deemed to include—

25                (1) the United States;

1           (2) a State or any political subdivision of a  
2       State;

3           (3) any foreign governmental authority not op-  
4       erating in the United States;

5           (4) any agency, authority, or instrumentality of  
6       any entity referred to in paragraph (1), (2), or (3);  
7       or

8           (5) any officer, agent, or employee of any entity  
9       referred to in paragraph (1), (2), (3), or (4) acting  
10      as such in the course of his or her official duty.

11 **SEC. 1279. EFFECT ON OTHER REGULATIONS.**

12       Nothing in this subtitle precludes the Commission or  
13   a State commission from exercising its jurisdiction under  
14   otherwise applicable law to protect utility customers.

15 **SEC. 1280. ENFORCEMENT.**

16       The Commission shall have the same powers as set  
17   forth in sections 306 through 317 of the Federal Power  
18   Act (16 U.S.C. 825e–825p) to enforce the provisions of  
19   this subtitle.

20 **SEC. 1281. SAVINGS PROVISIONS.**

21       (a) IN GENERAL.—Nothing in this subtitle, or other-  
22   wise in the Public Utility Holding Company Act of 1935,  
23   or rules, regulations, or orders thereunder, prohibits a per-  
24   son from engaging in or continuing to engage in activities  
25   or transactions in which it is legally engaged or authorized

1 to engage on the date of enactment of this Act, if that  
2 person continues to comply with the terms (other than an  
3 expiration date or termination date) of any such author-  
4 ization, whether by rule or by order.

5 (b) EFFECT ON OTHER COMMISSION AUTHORITY.—  
6 Nothing in this subtitle limits the authority of the Com-  
7 mission under the Federal Power Act (16 U.S.C. 791a et  
8 seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

9 **SEC. 1282. IMPLEMENTATION.**

10 Not later than 4 months after the date of enactment  
11 of this subtitle, the Commission shall—

12 (1) promulgate such regulations as may be nec-  
13 essary or appropriate to implement this subtitle  
14 (other than section 1275, relating to State access to  
15 books and records); and

16 (2) submit to Congress detailed recommenda-  
17 tions on technical and conforming amendments to  
18 Federal law necessary to carry out this subtitle and  
19 the amendments made by this subtitle.

20 **SEC. 1283. TRANSFER OF RESOURCES.**

21 All books and records that relate primarily to the  
22 functions transferred to the Commission under this sub-  
23 title shall be transferred from the Securities and Exchange  
24 Commission to the Commission.

1 **SEC. 1284. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except for section 1282 (relating  
3 to implementation), this subtitle shall take effect 6 months  
4 after the date of enactment of this subtitle.

5 (b) COMPLIANCE WITH CERTAIN RULES.—If the  
6 Commission approves and makes effective any final rule-  
7 making modifying the standards of conduct governing en-  
8 tities that own, operate, or control facilities for trans-  
9 mission of electricity in interstate commerce or transpor-  
10 tation of natural gas in interstate commerce prior to the  
11 effective date of this subtitle, any action taken by a public-  
12 utility company or utility holding company to comply with  
13 the requirements of such rulemaking shall not subject  
14 such public-utility company or utility holding company to  
15 any regulatory requirement applicable to a holding com-  
16 pany under the Public Utility Holding Company Act of  
17 1935 (15 U.S.C. 79 et seq.).

18 **SEC. 1285. SERVICE ALLOCATION.**

19 (a) FERC REVIEW.—In the case of non-power goods  
20 or administrative or management services provided by an  
21 associate company organized specifically for the purpose  
22 of providing such goods or services to any public utility  
23 in the same holding company system, at the election of  
24 the system or a State commission having jurisdiction over  
25 the public utility, the Commission, after the effective date  
26 of this subtitle, shall review and authorize the allocation

1 of the costs for such goods or services to the extent rel-  
2 evant to that associate company in order to assure that  
3 each allocation is appropriate for the protection of inves-  
4 tors and consumers of such public utility.

5 (b) COST ALLOCATION.—Nothing in this section shall  
6 preclude the Commission or a State commission from exer-  
7 cising its jurisdiction under other applicable law with re-  
8 spect to the review or authorization of any costs allocated  
9 to a public utility in a holding company system located  
10 in the affected State as a result of the acquisition of non-  
11 power goods or administrative and management services  
12 by such public utility from an associate company orga-  
13 nized specifically for that purpose.

14 (c) RULES.—Not later than 6 months after the date  
15 of enactment of this Act, the Commission shall issue rules  
16 (which rules shall be effective no earlier than the effective  
17 date of this subtitle) to exempt from the requirements of  
18 this section any company in a holding company system  
19 whose public utility operations are confined substantially  
20 to a single State and any other class of transactions that  
21 the Commission finds is not relevant to the jurisdictional  
22 rates of a public utility.

23 (d) PUBLIC UTILITY.—As used in this section, the  
24 term “public utility” has the meaning given that term in  
25 section 201(e) of the Federal Power Act.

1 **SEC. 1286. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated such funds  
3 as may be necessary to carry out this subtitle.

4 **SEC. 1287. CONFORMING AMENDMENTS TO THE FEDERAL**  
5 **POWER ACT.**

6       (a) **CONFLICT OF JURISDICTION.**—Section 318 of the  
7 Federal Power Act (16 U.S.C. 825q) is repealed.

8       (b) **DEFINITIONS.**—(1) Section 201(g)(5) of the  
9 Federal Power Act (16 U.S.C. 824(g)(5)) is amended by  
10 striking “1935” and inserting “2005”.

11       (2) Section 214 of the Federal Power Act (16 U.S.C.  
12 824m) is amended by striking “1935” and inserting  
13 “2005”.

14 **SEC. 1288. MERGER REVIEW REFORM.**

15       (a) **IN GENERAL.**—Section 203(a) of the Federal  
16 Power Act (16 U.S.C. 824b(a)) is amended to read as fol-  
17 lows:

18       “(a)(1) No public utility shall, without first having  
19 secured an order of the Commission authorizing it to do  
20 so—

21               “(A) sell, lease, or otherwise dispose of the  
22 whole of its facilities subject to the jurisdiction  
23 of the Commission, or any part thereof of a  
24 value in excess of \$10,000,000;

25               “(B) merge or consolidate, directly or indi-  
26 rectly, such facilities or any part thereof with

1           those of any other person, by any means what-  
2           soever;

3           “(C) purchase, acquire, or take any secu-  
4           rity with a value in excess of \$10,000,000 of  
5           any other public utility; or

6           “(D) purchase, lease, or otherwise acquire  
7           an existing generation facility—

8           “(i) that has a value in excess of  
9           \$10,000,000; and

10          “(ii) that is used for interstate whole-  
11          sale sales and over which the Commission  
12          has jurisdiction for ratemaking purposes.

13          “(2) No holding company in a holding company  
14          system that includes a transmitting utility or an  
15          electric utility shall purchase, acquire, or take any  
16          security with a value in excess of \$10,000,000 of, or,  
17          by any means whatsoever, directly or indirectly,  
18          merge or consolidate with, a transmitting utility, an  
19          electric utility company, or a gas utility company, or  
20          a holding company in a holding company system  
21          that includes a transmitting utility, an electric utility  
22          company, or a gas utility company with a value in  
23          excess of \$10,000,000 without first having secured  
24          an order of the Commission authorizing it to do so.



1           “(3) Upon receipt of an application for such ap-  
2           proval the Commission shall give reasonable notice  
3           in writing to the Governor and State commission of  
4           each of the States in which the physical property af-  
5           fected, or any part thereof, is situated, and to such  
6           other persons as it may deem advisable.

7           “(4) After notice and opportunity for hearing,  
8           the Commission shall approve the proposed disposi-  
9           tion, consolidation, acquisition, or change in control,  
10          if it finds that the proposed transaction—

11                 “(A) will be consistent with the public in-  
12                 terest, taking into account the effect of the  
13                 transaction on competition in the electricity  
14                 markets, electric rates, and effective regulation;  
15                 and

16                 “(B) shall not result in cross-subsidization  
17                 of a non-utility associate company or the pledge  
18                 or encumbrance of utility assets for the benefit  
19                 of an associate company, unless the Commis-  
20                 sion determines that the cross-subsidization,  
21                 pledge, or encumbrance would not be harmful.

22           “(5) The Commission shall, by rule, adopt pro-  
23           cedures for the expeditious consideration of applica-  
24           tions for the approval of dispositions, consolidations,  
25           or acquisitions, under this section. Such rules shall

1 identify classes of transactions, or specify criteria for  
2 transactions, that normally meet the standards es-  
3 tablished in paragraph (4). The Commission shall  
4 provide expedited review for such transactions. The  
5 Commission shall grant or deny any other applica-  
6 tion for approval of a transaction not later than 180  
7 days after the application is filed. If the Commission  
8 does not act within 180 days, such application shall  
9 be deemed granted unless the Commission finds,  
10 based on good cause, that further consideration is  
11 required to determine whether the proposed trans-  
12 action meets the standards of paragraph (4) and  
13 issues an order tolling the time for acting on the ap-  
14 plication for not more than 180 days, at the end of  
15 which additional period the Commission shall grant  
16 or deny the application.

17 “(6) For purposes of this subsection, the terms  
18 ‘associate company’, ‘holding company’, and ‘holding  
19 company system’ have the meaning given those  
20 terms in the Public Utility Holding Company Act of  
21 2005.”.

22 (b) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect 6 months after the date of  
24 enactment of this Act.

## 1                   **Subtitle H—Definitions**

### 2   **SEC. 1291. DEFINITIONS.**

3           (a) COMMISSION.—In this title, the term “Commis-  
4   sion” means the Federal Energy Regulatory Commission.

5           (b) AMENDMENT.—Section 3 of the Federal Power  
6   Act (16 U.S.C. 796) is amended—

7               (1) by striking paragraphs (22) and (23) and  
8   inserting the following:

9               “(22) ELECTRIC UTILITY.—(A) The term ‘elec-  
10   tric utility’ means a person or Federal or State  
11   agency (including an entity described in section  
12   201(f)) that sells electric energy.

13              “(B) The term ‘electric utility’ includes the  
14   Tennessee Valley Authority and each Federal power  
15   marketing administration.

16              “(23) TRANSMITTING UTILITY.—The term  
17   ‘transmitting utility’ means an entity (including an  
18   entity described in section 201(f)) that owns, oper-  
19   ates, or controls facilities used for the transmission  
20   of electric energy—

21                   “(A) in interstate commerce;

22                   “(B) for the sale of electric energy at  
23   wholesale.”; and

24              (2) by adding at the end the following:

1           “(26) ELECTRIC COOPERATIVE.—The term  
2           ‘electric cooperative’ means a cooperatively owned  
3           electric utility.

4           “(27) RTO.—The term ‘Regional Transmission  
5           Organization’ or ‘RTO’ means an entity of sufficient  
6           regional scope approved by the Commission—

7                   “(A) to exercise operational or functional  
8                   control of facilities used for the transmission of  
9                   electric energy in interstate commerce; and

10                   “(B) to ensure nondiscriminatory access to  
11                   the facilities.

12           “(28) ISO.—The term ‘Independent System  
13           Operator’ or ‘ISO’ means an entity approved by the  
14           Commission—

15                   “(A) to exercise operational or functional  
16                   control of facilities used for the transmission of  
17                   electric energy in interstate commerce; and

18                   “(B) to ensure nondiscriminatory access to  
19                   the facilities.

20           “(29) TRANSMISSION ORGANIZATION.—The  
21           term ‘Transmission Organization’ means a Regional  
22           Transmission Organization, Independent System Op-  
23           erator, independent transmission provider, or other  
24           transmission organization finally approved by the

1 Commission for the operation of transmission facili-  
 2 ties.”.

3 (c) APPLICABILITY.—Section 201(f) of the Federal  
 4 Power Act (16 U.S.C. 824(f)) is amended by striking “po-  
 5 litical subdivision of a state,” and inserting “political sub-  
 6 division of a State, an electric cooperative that receives  
 7 financing under the Rural Electrification Act of 1936 (7  
 8 U.S.C. 901 et seq.) or that sells less than 4,000,000 mega-  
 9 watt hours of electricity per year,”.

## 10 **Subtitle I—Technical and** 11 **Conforming Amendments**

### 12 **SEC. 1295. CONFORMING AMENDMENTS.**

13 (a) Section 201 of the Federal Power Act (16 U.S.C.  
 14 824) is amended—

15 (1) in subsection (b)(2)—

16 (A) in the first sentence—

17 (i) by striking “The” and inserting  
 18 “Notwithstanding section 201(f), the”; and

19 (ii) by striking “210, 211, and 212”  
 20 and inserting “203(a)(2), 206(e), 210,  
 21 211, 211A, 212, 215, 216, 217, 218, 219,  
 22 220, 221, 222, and 223”; and

23 (B) in the second sentence—

24 (i) by inserting “or rule” after “any  
 25 order”; and

1 (ii) by striking “210 or 211” and in-  
 2 serting “203(a)(2), 206(e), 210, 211,  
 3 211A, 212, 215, 216, 217, 218, 219, 220,  
 4 221, 222, or 223”; and

5 (2) in subsection (e), by striking “210, 211, or  
 6 212” and inserting “206(e), 206(f), 210, 211, 211A,  
 7 212, 215, 216, 217, 218, 219, 220, 221, 222, or  
 8 223”.

9 (b) Section 206 of the Federal Power Act (16 U.S.C.  
 10 824e) is amended—

11 (1) in the first sentence of subsection (a), by  
 12 striking “hearing had” and inserting “hearing held”;  
 13 and

14 (2) in the seventh sentence of subsection (b), by  
 15 striking “the public utility to make”.

16 (c) Section 211 of the Federal Power Act (16 U.S.C.  
 17 824j) is amended—

18 (1) in subsection (c)—

19 (A) by striking “(2)”;

20 (B) by striking “(A)” and inserting “(1)”

21 (C) by striking “(B)” and inserting “(2)”;

22 and

23 (D) by striking “termination of modifica-  
 24 tion” and inserting “termination or modifica-  
 25 tion”; and

1 (2) in the second sentence of subsection (d)(1),  
 2 by striking “electric utility” the second place it ap-  
 3 pears and inserting “transmitting utility”.

4 (d) Section 315(c) of the Federal Power Act (16  
 5 U.S.C. 825n(c)) is amended by striking “subsection” and  
 6 inserting “section”.

## 7 **TITLE XIII—STUDIES**

### 8 **SEC. 1301. ENERGY AND WATER SAVING MEASURES IN CON-** 9 **GRESSIONAL BUILDINGS.**

10 (a) IN GENERAL.—The Architect of the Capitol,  
 11 building on the Master Plan Study for the Capitol complex  
 12 completed in July 2000, shall commission a study to  
 13 evaluate the energy infrastructure of the Capitol complex  
 14 to determine how to augment the infrastructure to become  
 15 more energy efficient—

16 (1) by using unconventional and renewable en-  
 17 ergy resources; and

18 (2) in a manner that would enable the Capitol  
 19 complex to have reliable utility service in the event  
 20 of power fluctuations, shortages, or outages.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
 22 authorized to be appropriated to the Architect of the Cap-  
 23 itol to carry out this section \$2,000,000 for each of fiscal  
 24 years 2006 through 2010.

1 **SEC. 1302. INCREASED HYDROELECTRIC GENERATION AT**  
2 **EXISTING FEDERAL FACILITIES.**

3 (a) STUDY.—

4 (1) IN GENERAL.—The Secretary and the Sec-  
5 retary of the Interior, in consultation with the Sec-  
6 retary of the Army, shall conduct a study of the po-  
7 tential for increasing electric power production capa-  
8 bility, in accordance with applicable law, at federally  
9 owned or operated water regulation, storage, and  
10 conveyance facilities.

11 (2) CONTENTS.—The study under paragraph  
12 (1) shall include an identification and detailed de-  
13 scription of each facility that is capable, with or  
14 without modification, of producing additional hydro-  
15 electric power, including an estimate of the potential  
16 of the facility to generate hydroelectric power.

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than 18 months  
19 after the date of enactment of this Act, the Secre-  
20 taries shall submit to the Committee on Energy and  
21 the Committee on Commerce, Resources, Transpor-  
22 tation and Infrastructure of the House of Represent-  
23 atives, and the Committee on Energy and Natural  
24 Resources of the Senate, a report describing the  
25 findings, conclusions, and recommendations of the  
26 study under subsection (a).



1           (2) INCLUSIONS.—The report under paragraph  
2       (1) shall include—

3                   (A) each identification, description, and es-  
4       timate under subsection (a)(2);

5                   (B) a description of any activity that is  
6       conducted or under consideration, or that could  
7       be considered, to produce additional hydro-  
8       electric power at an identified facility;

9                   (C) a summary of actions taken by the  
10      Secretaries before the date on which the study  
11      was completed to produce additional hydro-  
12      electric power at an identified facility;

13                  (D) a calculation of—

14                   (i) the costs of installing, upgrading,  
15       modifying, or taking any other action re-  
16       lating to, equipment to produce additional  
17       hydroelectric power at an identified facil-  
18       ity; and

19                   (ii) the level of involvement of Federal  
20      power customers in the determination of  
21      the costs;

22                  (E) a description of any benefit to be  
23      achieved by an installation, upgrade, modifica-  
24      tion, or other action under subparagraph (D),  
25      including a quantified estimate of any addi-

1           tional energy or capacity produced at an identi-  
2           fied facility;

3           (F) a description of any action that is  
4           planned, is being carried out on the date on  
5           which the report is submitted, or might reason-  
6           ably be considered to increase hydroelectric  
7           power production by replacing turbine runners,  
8           upgrading or rewinding generators, or con-  
9           structing pumped storage facilities;

10          (G) a description of the effect of increased  
11          hydroelectric power production on—

12               (i) irrigation;

13               (ii) fish;

14               (iii) wildlife;

15               (iv) Indian land;

16               (v) river health;

17               (vi) water quality;

18               (vii) navigation;

19               (viii) recreation;

20               (ix) fishing; and

21               (x) flood control; and

22          (H) any additional recommendations of the  
23          Secretaries to increase hydroelectric power pro-  
24          duction, and reduce costs and improve effi-  
25          ciency, in accordance with applicable law, at

1           federally owned or operated water regulation,  
2           storage, and conveyance facilities.

3 **SEC. 1303. ALASKA NATURAL GAS PIPELINE.**

4           Not later than 180 days after the date of enactment  
5 of this Act, and every 180 days thereafter until the Alaska  
6 natural gas pipeline commences operation, the Federal  
7 Energy Regulatory Commission shall submit to Congress  
8 a report describing—

9           (1) the progress made in licensing and con-  
10          structing the pipeline; and

11          (2) any issue impeding that progress.

12 **SEC. 1304. RENEWABLE ENERGY ON FEDERAL LAND.**

13          (a) NATIONAL ACADEMY OF SCIENCES STUDY.—Not  
14 later than 90 days after the date of enactment of this Act,  
15 the Secretary of the Interior shall enter into a contract  
16 with the National Academy of Sciences under which the  
17 National Academy of Sciences shall—

18           (1) study the potential of developing wind,  
19          solar, and ocean energy resources (including tidal,  
20          wave, and thermal energy) on Federal land available  
21          for those uses under current law and the outer Con-  
22          tinental Shelf;

23           (2) assess any Federal law (including regula-  
24          tions) relating to the development of those resources

1       that is in existence on the date of enactment of this  
2       Act; and

3               (3) recommend statutory and regulatory mecha-  
4       nisms for developing those resources.

5       (b) SUBMISSION TO CONGRESS.—Not later than 2  
6       years after the date of enactment of this Act, the Sec-  
7       retary of the Interior shall submit to Congress the results  
8       of the study under subsection (a).

9       **SEC. 1305. COAL BED METHANE STUDY.**

10       (a) STUDY.—

11               (1) IN GENERAL.—The Secretary of the Inte-  
12       rior shall enter into an arrangement under which the  
13       National Academy of Sciences shall conduct a study  
14       on the effect of coalbed natural gas production on  
15       surface and ground water resources, including  
16       ground water aquifers, in the States of Montana,  
17       Wyoming, Colorado, New Mexico, North Dakota,  
18       and Utah.

19               (2) MATTERS TO BE ADDRESSED.—The study  
20       shall address the effectiveness of—

21                       (A) the management of coal bed methane  
22       produced water;

23                       (B) the use of best management practices;  
24       and

1 (C) various production techniques for coal  
2 bed methane natural gas in minimizing impacts  
3 on water resources.

4 (b) DATA ANALYSIS.—The study shall analyze avail-  
5 able hydrologic, geologic and water quality data, along  
6 with—

7 (1) production techniques, produced water man-  
8 agement techniques, best management practices, and  
9 other factors that can mitigate effects of coal bed  
10 methane development;

11 (2) the costs associated with mitigation tech-  
12 niques;

13 (3) effects on surface or ground water re-  
14 sources, including drinking water, associated with  
15 surface or subsurface disposal of waters produced  
16 during extraction of coal bed methane; and

17 (4) any other significant effects on surface or  
18 ground water resources associated with production  
19 of coal-bed methane.

20 (c) RECOMMENDATIONS.—The study shall analyze  
21 the effectiveness of current mitigation practices of coal bed  
22 methane produced water handling in relation to existing  
23 Federal and State laws and regulations, and make rec-  
24 ommendations as to changes, if any, to Federal law nec-  
25 essary to address adverse impacts to surface or ground

1 water resources associated with coal bed methane develop-  
2 ment.

3 (d) COMPLETION OF STUDY.—The National Acad-  
4 emy of Sciences shall submit the findings and rec-  
5 ommendations of the study to the Secretary of the Interior  
6 within 12 months after the date of enactment of this Act,  
7 and shall upon completion make the results of the study  
8 available to the public.

9 (e) REPORT TO CONGRESS.—The Secretary of the In-  
10 terior shall report to the Congress within 6 months after  
11 receiving the results of the study on—

12 (1) the findings and recommendations of the  
13 study;

14 (2) the Secretary's agreement or disagreement  
15 with each of its findings and recommendations; and

16 (3) any recommended changes in funding to ad-  
17 dress the effects of coal bed methane production on  
18 surface and ground water resources.

19 **SEC. 1306. BACKUP FUEL CAPABILITY STUDY.**

20 (a) STUDY.—

21 (1) IN GENERAL.—The Secretary shall conduct  
22 a study of the effect of obtaining and maintaining  
23 liquid and other fuel backup capability at—

24 (A) gas-fired power generation facilities;  
25 and

1 (B) other gas-fired industrial facilities.

2 (2) CONTENTS.—The study under paragraph

3 (1) shall address—

4 (A) the costs and benefits of adding a dif-  
5 ferent fuel capability to a power gas-fired power  
6 generating or industrial facility, taking into  
7 consideration regional differences;

8 (B) methods of the Federal Government  
9 and State governments to encourage gas-fired  
10 power generators and industries to develop the  
11 capability to power the facilities using a backup  
12 fuel;

13 (C) the effect on the supply and cost of  
14 natural gas of—

15 (i) a balanced portfolio of fuel choices  
16 in power generation and industrial applica-  
17 tions; and

18 (ii) State regulations that permit  
19 agencies in the State to carry out policies  
20 that encourage the use of other backup  
21 fuels in gas-fired power generation; and

22 (D) changes required in the Clean Air Act  
23 (42 U.S.C. 7401 et seq.) to allow natural gas  
24 generators to add clean backup fuel capabilities.

1 (b) REPORT TO CONGRESS.—Not later than 1 year  
2 after the date of enactment of this Act, the Secretary shall  
3 submit to Congress a report on the results of the study  
4 under subsection (a), including recommendations regard-  
5 ing future activity of the Federal Government relating to  
6 backup fuel capability.

7 **SEC. 1307. INDIAN LAND RIGHTS-OF-WAY.**

8 (a) STUDY.—

9 (1) IN GENERAL.—The Secretary and the Sec-  
10 retary of the Interior (referred to in this section as  
11 the “Secretaries”) shall jointly conduct a study of  
12 issues regarding energy rights-of-way on tribal land  
13 (as defined in section 2601 of the Energy Policy Act  
14 of 1992 (as amended by section 503)) (referred to  
15 in this section as “tribal land”).

16 (2) CONSULTATION.—In conducting the study  
17 under paragraph (1), the Secretaries shall consult  
18 with Indian tribes, the energy industry, appropriate  
19 governmental entities, and affected businesses and  
20 consumers.

21 (b) REPORT.—Not later than 1 year after the date  
22 of enactment of this Act, the Secretaries shall submit to  
23 Congress a report on the findings of the study, includ-  
24 ing—



1           (1) an analysis of historic rates of compensation  
2       paid for energy rights-of-way on tribal land;

3           (2) recommendations for appropriate standards  
4       and procedures for determining fair and appropriate  
5       compensation to Indian tribes for grants, expan-  
6       sions, and renewals of energy rights-of-way on tribal  
7       land;

8           (3) an assessment of the tribal self-determina-  
9       tion and sovereignty interests implicated by applica-  
10      tions for the grant, expansion, or renewal of energy  
11      rights-of-way on tribal land; and

12          (4) an analysis of relevant national energy  
13      transportation policies relating to grants, expan-  
14      sions, and renewals of energy rights-of-way on tribal  
15      land.

16 **SEC. 1308. REVIEW OF ENERGY POLICY ACT OF 1992 PRO-**  
17 **GRAMS.**

18       (a) IN GENERAL.—Not later than 180 days after the  
19      date of enactment of this Act, the Secretary shall complete  
20      a study to determine the effect that titles III, IV, and V  
21      of the Energy Policy Act of 1992 (42 U.S.C. 13211 et  
22      seq.) have had during the period beginning on the date  
23      of enactment of those titles and ending on the date on  
24      which the study begins on—

1           (1) the development of alternative fueled vehicle  
2       technology;

3           (2) the availability of that technology in the  
4       market; and

5           (3) the cost of alternative fueled vehicles.

6       (b) TOPICS.—In conducting the study under sub-  
7       section (a), the Secretary shall identify—

8           (1) the number of alternative fueled vehicles ac-  
9       quired by fleets or covered persons required to ac-  
10      quire alternative fueled vehicles;

11          (2) the quantity, by type, of alternative fuel  
12      used in alternative fueled vehicles acquired by fleets  
13      or covered persons;

14          (3) the quantity of petroleum displaced by the  
15      use of alternative fuels in alternative fueled vehicles  
16      acquired by fleets or covered persons;

17          (4) the direct and indirect costs of compliance  
18      with requirements under titles III, IV, and V of the  
19      Energy Policy Act of 1992 (42 U.S.C. 13211 et  
20      seq.), including—

21               (A) vehicle acquisition requirements im-  
22               posed on fleets or covered persons;

23               (B) administrative and recordkeeping ex-  
24               penses;

25               (C) fuel and fuel infrastructure costs;

1 (D) associated training and employee ex-  
2 penses; and

3 (E) any other factors or expenses the Sec-  
4 retary determines to be necessary to compile re-  
5 liable estimates of the overall costs and benefits  
6 of complying with programs under those titles  
7 for fleets, covered persons, and the national  
8 economy;

9 (5) the existence of obstacles preventing compli-  
10 ance with vehicle acquisition requirements and in-  
11 creased use of alternative fuel in alternative fueled  
12 vehicles acquired by fleets or covered persons; and

13 (6) the projected impact of amendments to the  
14 Energy Policy Act of 1992 made by this Act.

15 (c) REPORT.—On the date on which the study under  
16 subsection (a) is completed, the Secretary shall submit to  
17 Congress a report that—

18 (1) describes the results of the study; and

19 (2) includes any recommendations of the Sec-  
20 retary for legislative or administrative changes con-  
21 cerning the alternative fueled vehicle requirements  
22 under titles III, IV and V of the Energy Policy Act  
23 of 1992 (42 U.S.C. 13211 et seq.).

1 **SEC. 1309. STUDY OF FEASIBILITY AND EFFECTS OF RE-**  
2 **DUCING USE OF FUEL FOR AUTOMOBILES.**

3 (a) STUDY.—

4 (1) IN GENERAL.—Not later than 30 days after  
5 the date of the enactment of this Act, the Adminis-  
6 trator of the National Highway Traffic Safety Ad-  
7 ministration shall conduct a study of the feasibility  
8 and effects of reducing, by a significant percentage,  
9 by model year 2012, the amount of fuel consumed  
10 by automobiles.

11 (2) INCLUSIONS.—The study under paragraph  
12 (1) shall include an examination of—

13 (A) the Federal policy of establishing aver-  
14 age fuel economy standards for automobiles and  
15 requiring each automobile manufacturer to  
16 comply with average fuel economy standards  
17 that apply to the automobiles the manufacturer  
18 produces (including recommendations of alter-  
19 natives to that policy);

20 (B) methods by which automobile manu-  
21 facturers could contribute toward achieving the  
22 reduction described in paragraph (1);

23 (C) the potential of using fuel cell tech-  
24 nology in motor vehicles to determine the extent  
25 to which fuel cell technology contributes to

1 achieving the reduction described in paragraph  
2 (1); and

3 (D) the effects of the reduction described  
4 in paragraph (1) on—

5 (i) gasoline supplies;

6 (ii) the automobile industry, including  
7 sales of automobiles manufactured in the  
8 United States;

9 (iii) motor vehicle safety;

10 (iv) air quality; and

11 (v) the consumer price for light duty  
12 trucks typically purchased for agricultural  
13 purposes, including by providing estimates  
14 for price differences for the years 2008  
15 through 2012, comparing—

16 (I) light duty truck fuel economy  
17 if no legislative changes are made to  
18 average fuel economy standards; to

19 (II) light duty truck fuel econ-  
20 omy under the reduction described in  
21 paragraph (1).

22 (b) REPORT.—Not later than 1 year after the date  
23 of enactment of this Act, the Administrator shall submit  
24 to Congress a report on the findings, conclusions, and rec-  
25 ommendations of the study under subsection (a).

1 **SEC. 1310. HYBRID DISTRIBUTED POWER SYSTEMS.**

2 Not later than 1 year after the date of enactment  
3 of this Act, the Secretary shall develop, and submit to  
4 Congress a report on, a strategy for a comprehensive re-  
5 search, development, demonstration, and commercial ap-  
6 plication program to develop hybrid distributed power sys-  
7 tems that combine—

8 (1) 1 or more renewable electric power genera-  
9 tion technologies of 10 megawatts or less located  
10 near the site of electric energy use; and

11 (2) nonintermittent electric power generation  
12 technologies suitable for use in a distributed power  
13 system.

14 **SEC. 1311. MOBILITY OF SCIENTIFIC AND TECHNICAL PER-**  
15 **SONNEL.**

16 Not later than 2 years after the date of enactment  
17 of this section, the Secretary shall transmit to Congress  
18 a report that—

19 (1) identifies any policies or procedures of a  
20 contractor operating a National Laboratory or sin-  
21 gle-purpose research facility that create disincentives  
22 to the temporary or permanent transfer of scientific  
23 and technical personnel among the contractor-oper-  
24 ated National Laboratories or contractor-operated  
25 single-purpose research facilities; and

1           (2) provides recommendations for improving  
2       interlaboratory exchange of scientific and technical  
3       personnel.

4   **SEC. 1312. NATIONAL ACADEMY OF SCIENCES REPORT.**

5       Not later than 90 days after the date of enactment  
6   of this Act, the Secretary shall enter into an arrangement  
7   with the National Academy of Sciences for the Academy  
8   to—

9           (1) conduct a study on—

10           (A) the obstacles to accelerating the re-  
11       search, development, demonstration, and com-  
12       mercial application cycle for energy technology;  
13       and

14           (B) the adequacy of Department policies  
15       and procedures for, and oversight of, technology  
16       transfer-related disputes between contractors of  
17       the Department and the private sector; and

18           (2) report to Congress on recommendations de-  
19       veloped as a result of the study.

20   **SEC. 1313. REPORT ON RESEARCH AND DEVELOPMENT**  
21       **PROGRAM EVALUATION METHODOLOGIES.**

22       (a) IN GENERAL.—Not later than 180 days after the  
23   date of enactment of this Act, the Secretary shall enter  
24   into appropriate arrangements with the National Academy  
25   of Sciences to investigate and report on the scientific and

1 technical merits of any evaluation methodology currently  
2 in use or proposed for use in relation to the scientific and  
3 technical programs of the Department by the Secretary  
4 or other Federal official.

5 (b) REPORT.—Not later than 180 days after receiv-  
6 ing the report of the National Academy of Sciences, the  
7 Secretary shall submit to Congress a report, along with  
8 any other views or plans of the Secretary with respect to  
9 the future use of the evaluation methodology.

10 **SEC. 1314. TRANSMISSION SYSTEM MONITORING STUDY.**

11 (a) IN GENERAL.—Not later than 180 days after the  
12 date of enactment of this Act, the Secretary and the  
13 Chairperson of the Federal Energy Regulatory Commis-  
14 sion shall conduct a study, and submit to Congress a re-  
15 port, on any action the Secretary determines to be nec-  
16 essary to establish a system that makes available to all  
17 transmission system owners and regional transmission or-  
18 ganizations in the Eastern and Western Interconnections  
19 real-time information on the functional status of all trans-  
20 mission lines within those Interconnections.

21 (b) INCLUSIONS.—The study under this section shall  
22 include—

23 (1) an assessment of any technical method of  
24 implementing the information transmission system  
25 described in subsection (a); and



1           (2) an identification of any action the Secretary  
 2           and the Chairperson shall carry out to implement  
 3           the information transmission system.

4 **SEC. 1315. INTERAGENCY REVIEW OF COMPETITION IN THE**  
 5 **WHOLESALE AND RETAIL MARKETS FOR**  
 6 **ELECTRIC ENERGY.**

7           (a) TASK FORCE.—There is established an inter-  
 8           agency task force, to be known as the “Electric Energy  
 9           Market Competition Task Force” (referred to in this sec-  
 10          tion as the “task force”), consisting of 5 members—

11           (1) 1 of whom shall be an employee of the De-  
 12          partment of Justice, to be appointed by the Attorney  
 13          General of the United States;

14           (2) 1 of whom shall be an employee of the Fed-  
 15          eral Energy Regulatory Commission, to be appointed  
 16          by the Chairperson of that Commission;

17           (3) 1 of whom shall be an employee of the Fed-  
 18          eral Trade Commission, to be appointed by the  
 19          Chairperson of that Commission;

20           (4) 1 of whom shall be an employee of the De-  
 21          partment, to be appointed by the Secretary; and

22           (5) 1 of whom shall be an employee of the  
 23          Rural Utilities Service, to be appointed by the Sec-  
 24          retary of Agriculture.

25          (b) STUDY AND REPORT.—

1           (1) STUDY.—The task force shall conduct a  
2       study and analysis of competition within the whole-  
3       sale and retail market for electric energy in the  
4       United States.

5           (2) REPORT.—

6               (A) FINAL REPORT.—Not later than 1  
7       year after the date of enactment of this Act, the  
8       task force shall submit to Congress a final re-  
9       port on the findings of the task force under  
10      paragraph (1).

11            (B) PUBLIC COMMENT.—Not later than  
12      the date that is 60 days before a final report  
13      is submitted to Congress under subparagraph  
14      (A), the task force shall—

15                   (i) publish in the Federal Register a  
16                   draft of the report; and

17                   (ii) provide an opportunity for public  
18                   comment on the report.

19           (c) CONSULTATION.—In conducting the study under  
20      subsection (b), the task force shall consult with and solicit  
21      comments from any advisory entity of the task force, the  
22      States, representatives of the electric power industry, and  
23      the public.

1 **SEC. 1316. STUDY ON THE BENEFITS OF ECONOMIC DIS-**  
2 **PATCH.**

3 (a) DEFINITION OF ECONOMIC DISPATCH.—In this  
4 section, the term “economic dispatch” means the oper-  
5 ation of a generation facility to produce energy at the low-  
6 est cost in order to reliably serve consumers, taking into  
7 consideration any operational limit of a generation or  
8 transmission facility.

9 (b) STUDY.—The Secretary, in coordination and con-  
10 sultation with the States, shall conduct a study of—

11 (1) the procedures currently used by electric  
12 utilities to carry out economic dispatch;

13 (2) possible revisions to those procedures to im-  
14 prove the ability of nonutility generation resources  
15 to offer the output of the resources for sale for in-  
16 clusion in economic dispatch; and

17 (3) the potential benefits to residential, com-  
18 mercial, and industrial electricity consumers, nation-  
19 ally and in each State, of revising economic dispatch  
20 procedures to improve the ability of nonutility gen-  
21 eration resources to offer the output of the resources  
22 for inclusion in economic dispatch.

23 (c) REPORT TO CONGRESS AND THE STATES.—Not  
24 later than 90 days after the date of enactment of this Act,  
25 and annually thereafter, the Secretary shall submit to  
26 Congress and each State a report describing the results

1 of the study under subsection (b), including recommenda-  
2 tions of the Secretary for such legislative and administra-  
3 tive actions as the Secretary determines to be appropriate.

4 **SEC. 1317. STUDY OF RAPID ELECTRICAL GRID RESTORA-**  
5 **TION.**

6 (a) STUDY.—

7 (1) IN GENERAL.—The Secretary shall conduct  
8 a study of the benefits of using mobile transformers  
9 and mobile substations to rapidly restore electrical  
10 service to areas subjected to blackouts as a result  
11 of—

- 12 (A) equipment failure;
- 13 (B) natural disasters;
- 14 (C) acts of terrorism; or
- 15 (D) war.

16 (2) CONTENTS.—The study under paragraph  
17 (1) shall contain an analysis of—

- 18 (A) the feasibility of using mobile trans-  
19 formers and mobile substations to reduce de-  
20 pendence on foreign entities for key elements of  
21 the electrical grid system of the United States;
- 22 (B) the feasibility of using mobile trans-  
23 formers and mobile substations to rapidly re-  
24 store electrical power to—

- 25 (i) military bases;

- 1 (ii) the Federal Government;
- 2 (iii) communications industries;
- 3 (iv) first responders; and
- 4 (v) other critical infrastructures, as
- 5 determined by the Secretary;

6 (C) the quantity of mobile transformers  
7 and mobile substations necessary—

- 8 (i) to eliminate dependence on foreign
- 9 sources for key electrical grid components
- 10 in the United States;

- 11 (ii) to rapidly deploy technology to
- 12 fully restore full electrical service to
- 13 prioritized Governmental functions; and

- 14 (iii) to identify manufacturing sources
- 15 in existence on the date of enactment of
- 16 this Act that have previously manufactured
- 17 specialized mobile transformer or mobile
- 18 substation products for Federal agencies.

19 (b) REPORT.—

- 20 (1) IN GENERAL.—Not later than 1 year after
- 21 the date of enactment of this Act, the Secretary
- 22 shall submit to the President and Congress a report
- 23 on the study under subsection (a).

1           (2) INCLUSION.—The report shall include a de-  
2       scription of the results of the analysis under sub-  
3       section (a)(2).

4   **SEC. 1318. STUDY OF DISTRIBUTED GENERATION.**

5       (a) STUDY.—

6           (1) IN GENERAL.—

7               (A) POTENTIAL BENEFITS.—The Sec-  
8       retary, in consultation with the Federal Power  
9       Commission, shall conduct a study of the poten-  
10      tial benefits of cogeneration and small power  
11      production.

12            (B) RECIPIENTS.—The benefits described  
13      in subparagraph (A) include benefits that are  
14      received directly or indirectly by—

15               (i) an electricity distribution or trans-  
16      mission service provider;

17               (ii) other customers served by an elec-  
18      tricity distribution or transmission service  
19      provider; and

20               (iii) the general public in the area  
21      served by the public utility in which the co-  
22      generator or small power producer is lo-  
23      cated.

24           (2) INCLUSIONS.—The study shall include an  
25      analysis of—

- 1 (A) the potential benefits of—  
2 (i) increased system reliability;  
3 (ii) improved power quality;  
4 (iii) the provision of ancillary services;  
5 (iv) reduction of peak power require-  
6 ments through onsite generation;  
7 (v) the provision of reactive power or  
8 volt-ampere reactives;  
9 (vi) an emergency supply of power;  
10 (vii) offsets to investments in genera-  
11 tion, transmission, or distribution facilities  
12 that would otherwise be recovered through  
13 rates;  
14 (viii) diminished land use effects and  
15 right-of-way acquisition costs; and  
16 (ix) reducing the vulnerability of a  
17 system to terrorism; and  
18 (B) any rate-related issue that may impede  
19 or otherwise discourage the expansion of cogen-  
20 eration and small power production facilities,  
21 including a review of whether rates, rules, or  
22 other requirements imposed on the facilities are  
23 comparable to rates imposed on customers of  
24 the same class that do not have cogeneration or  
25 small power production.

1           (3) VALUATION OF BENEFITS.—In carrying out  
2       the study, the Secretary shall determine an appro-  
3       priate method of valuing potential benefits under  
4       varying circumstances for individual cogeneration or  
5       small power production units.

6       (b) REPORT.—Not later than 18 months after the  
7       date of enactment of this Act, the Secretary shall—

8           (1) complete the study;

9           (2) provide an opportunity for public comment  
10       on the results of the study; and

11          (3) submit to the President and Congress a re-  
12       port describing—

13           (A) the results of the study; and

14           (B) information relating to the public com-  
15       ments received under paragraph (2).

16       (c) PUBLICATION.—After submission of the report  
17       under subsection (b) to the President and Congress, the  
18       Secretary shall publish the report.

19       **SEC. 1319. STUDY ON INVENTORY OF PETROLEUM AND**  
20               **NATURAL GAS STORAGE.**

21       (a) DEFINITION OF PETROLEUM.—In this section,  
22       the term “petroleum” means—

23           (1) crude oil;

24           (2) motor gasoline;

25           (3) jet fuel;



1 (4) distillates; and

2 (5) propane.

3 (b) STUDY.—

4 (1) IN GENERAL.—The Secretary shall conduct  
5 a study of petroleum and natural gas storage capac-  
6 ity and operational inventory levels, nationwide and  
7 by major geographical regions.

8 (2) INCLUSIONS.—The study shall include an  
9 analysis of, for petroleum and natural gas—

10 (A) historical normal ranges of inventory  
11 levels;

12 (B) historical and projected storage capac-  
13 ity trends;

14 (C) estimated operation inventory levels  
15 below which outages, delivery slowdown, ration-  
16 ing, interruptions in service, or other indicators  
17 of shortage begin to appear;

18 (D) explanations for inventory levels drop-  
19 ping below normal ranges; and

20 (E) the ability of industry to meet the de-  
21 mand of the United States for petroleum and  
22 natural gas without shortages or price spikes, if  
23 inventory levels are below normal ranges.

1 (c) REPORT.—Not later than 1 year after the date  
2 of enactment of this Act, the Secretary shall submit to  
3 Congress a report on the results of the study, including—

4 (1) the findings of the study; and

5 (2) any recommendations of the Secretary for  
6 preventing future supply shortages.

7 **SEC. 1320. NATURAL GAS SUPPLY SHORTAGE REPORT.**

8 (a) IN GENERAL.—Not later than 180 days after the  
9 date of enactment of this Act, the Secretary shall submit  
10 to Congress a report on natural gas supplies and demand.

11 (b) PURPOSE.—The purpose of the report under sub-  
12 section (a) is to develop recommendations for achieving  
13 a balance between natural gas supply and demand in order  
14 to—

15 (1) provide residential consumers with natural  
16 gas at reasonable and stable prices;

17 (2) accommodate long-term maintenance and  
18 growth of domestic natural gas-dependent industrial,  
19 manufacturing, and commercial enterprises;

20 (3) facilitate the attainment of national ambient  
21 air quality standards under the Clean Air Act (43  
22 U.S.C. 7401 et seq.);

23 (4) achieve continued progress in reducing the  
24 emissions associated with electric power generation;  
25 and

1           (5) support the development of the preliminary  
2           phases of hydrogen-based energy technologies.

3           (c) COMPREHENSIVE ANALYSIS.—The report shall  
4           include a comprehensive analysis of, for the period begin-  
5           ning on January 1, 2004, and ending on December 31,  
6           2015, natural gas supply and demand in the United  
7           States, including—

8           (1) estimates of annual domestic demand for  
9           natural gas, taking into consideration the effect of  
10          Federal policies and actions that are likely to in-  
11          crease or decrease the demand for natural gas;

12          (2) projections of annual natural gas supplies,  
13          from domestic and foreign sources, under Federal  
14          policies in existence on the date of enactment of this  
15          Act;

16          (3) an identification of estimated natural gas  
17          supplies that are not available under those Federal  
18          policies;

19          (4) scenarios for decreasing natural gas demand  
20          and increasing natural gas supplies that compare  
21          the relative economic and environmental impacts of  
22          Federal policies that—

23                (A) encourage or require the use of natural  
24                gas to meet air quality, carbon dioxide emission  
25                reduction, or energy security goals;

1 (B) encourage or require the use of energy  
2 sources other than natural gas, including coal,  
3 nuclear, and renewable sources;

4 (C) support technologies to develop alter-  
5 native sources of natural gas and synthetic gas,  
6 including coal gasification technologies;

7 (D) encourage or require the use of energy  
8 conservation and demand side management  
9 practices; and

10 (E) affect access to domestic natural gas  
11 supplies; and

12 (5) recommendations for Federal actions to  
13 achieve the purposes described in subsection (b), in-  
14 cluding recommendations that—

15 (A) encourage or require the use of energy  
16 sources other than natural gas, including coal,  
17 nuclear, and renewable sources;

18 (B) encourage or require the use of energy  
19 conservation or demand side management prac-  
20 tices;

21 (C) support technologies for the develop-  
22 ment of alternative sources of natural gas and  
23 synthetic gas, including coal gasification tech-  
24 nologies; and

1 (D) would improve access to domestic nat-  
2 ural gas supplies.

3 (d) CONSULTATION.—In preparing the report under  
4 subsection (a), the Secretary shall consult with—

5 (1) experts in natural gas supply and demand;  
6 and

7 (2) representatives of—

8 (A) State and local governments;

9 (B) tribal organizations; and

10 (C) consumer and other organizations.

11 (e) HEARINGS.—In preparing the report under sub-  
12 section (a), the Secretary may hold public hearings and  
13 provide other opportunities for public comment, as the  
14 Secretary considers appropriate.

15 **SEC. 1321. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING**  
16 **AND DEVELOPMENT PRACTICES.**

17 (a) REVIEW.—

18 (1) IN GENERAL.—In consultation with affected  
19 private surface owners, representatives of the oil and  
20 gas industry, and other interested parties, the Sec-  
21 retary of the Interior shall undertake a review of the  
22 current policies and practices with respect to man-  
23 agement of Federal subsurface oil and gas develop-  
24 ment activities and the effects of those activities on  
25 the privately owned surface.

1 (2) INCLUSIONS.—The review shall include—

2 (A) a comparison of the rights and respon-  
3 sibilities under existing mineral and land law  
4 for the owner of a Federal mineral lease, the  
5 private surface owners and the Department;

6 (B) a comparison of the surface owner  
7 consent provisions in section 714 of the Surface  
8 Mining Control and Reclamation Act of 1977  
9 (30 U.S.C. 1304) concerning surface mining of  
10 Federal coal deposits and the surface owner  
11 consent provisions for oil and gas development,  
12 including coalbed methane production;

13 (C) an analysis and comparison of existing  
14 State laws addressing surface owner protection  
15 on split estates in which the surface estate is  
16 privately held and the subsurface estate is fed-  
17 erally owned, or other split estate situations;  
18 and

19 (D) recommendations for administrative or  
20 legislative action necessary to facilitate reason-  
21 able access for Federal oil and gas activities  
22 while addressing surface owner concerns and  
23 minimizing impacts to private surface.

1 (b) REPORT.—The Secretary of the Interior shall re-  
 2 port the results of such review to Congress not later than  
 3 180 days after the date of enactment of this Act.

4 **SEC. 1322. RESOLUTION OF FEDERAL RESOURCE DEVELOP-**  
 5 **MENT CONFLICTS IN THE POWDER RIVER**  
 6 **BASIN.**

7 (a) REVIEW.—The Secretary of the Interior shall re-  
 8 view Federal and State laws in existence on the date of  
 9 enactment of this Act in order to resolve any conflict relat-  
 10 ing to the Powder River Basin in Wyoming and Montana  
 11 between—

- 12 (1) the development of Federal coal; and
- 13 (2) the development of Federal and non-Federal
- 14 coalbed methane.

15 (b) REPORT.—Not later than 180 days after the date  
 16 of enactment of this Act, the Secretary of the Interior  
 17 shall submit to Congress a report that—

- 18 (1) describes methods of resolving a conflict de-
- 19 scribed in subsection (a); and
- 20 (2) identifies a method preferred by the Sec-
- 21 retary of the Interior, including proposed legislative
- 22 language, if any, required to implement the method.

23 **SEC. 1323. STUDY OF ENERGY EFFICIENCY STANDARDS.**

24 (a) STUDY.—The Secretary shall enter into a con-  
 25 tract with the National Academy of Sciences under which

1 the National Academy of Sciences, not later than 1 year  
2 after the date of enactment of this Act, shall conduct a  
3 study of whether the goals of energy efficiency standards  
4 are best served—

5 (1) by measuring energy consumed, and effi-  
6 ciency improvements, at the site of energy consump-  
7 tion; or

8 (2) through the full fuel cycle, beginning at the  
9 source of energy production.

10 (b) REPORT.—Not later than 1 year after the date  
11 of enactment of this Act, the Secretary shall submit to  
12 Congress a report on the study under subsection (a).

13 **SEC. 1324. TELECOMMUTING STUDY.**

14 (a) DEFINITIONS.—In this section:

15 (1) FEDERAL EMPLOYEE.—The term “Federal  
16 employee” has the meaning given the term “em-  
17 ployee” in section 2105 of title 5, United States  
18 Code.

19 (2) TELECOMMUTING.—The term “telecom-  
20 muting” means the performance of work functions  
21 using communications technologies, which eliminates  
22 or substantially reduces the need to commute to and  
23 from traditional worksites.

24 (b) STUDY REQUIRED.—The Secretary, in consulta-  
25 tion with the Chairperson of the Federal Energy Regu-



1 latory Commission, the Director of the Office of Personnel  
2 Management, the Administrator of General Services, and  
3 the Administrator of National Telecommunications and  
4 Information Administration, shall conduct a study of the  
5 energy conservation implications of the widespread adop-  
6 tion of telecommuting by Federal employees in the United  
7 States.

8 (c) INCLUSIONS.—The study under subsection (b)  
9 shall include an analysis of the following subjects in rela-  
10 tion to the energy saving potential of telecommuting by  
11 Federal employees:

12 (1) Reductions of energy use and energy costs  
13 in commuting and regular office heating, cooling,  
14 and other operations.

15 (2) Other energy reductions accomplished by  
16 telecommuting.

17 (3) Existing regulatory barriers that hamper  
18 telecommuting, including barriers to broadband tele-  
19 communications services deployment.

20 (4) Collateral benefits to the environment, fam-  
21 ily life, and other values.

22 (d) REPORT.—Not later than 180 days after the date  
23 of enactment of this Act, the Secretary shall submit to  
24 the President and Congress a report on the study under

1 subsection (b), including a description of the results of the  
2 analysis of each of subject referred to in subsection (c).

3 **SEC. 1325. OIL BYPASS FILTRATION TECHNOLOGY.**

4 The Secretary and the Administrator of the Environ-  
5 mental Protection Agency shall—

6 (1) conduct a joint study of the benefits of oil  
7 bypass filtration technology in—

8 (A) reducing demand for oil; and

9 (B) protecting the environment;

10 (2) evaluate various products and manufactur-  
11 ers with respect to oil bypass filtration technology;  
12 and

13 (3) after conducting the evaluation under para-  
14 graph (2), examine the feasibility of using oil bypass  
15 filtration technology in Federal motor vehicle fleets.

16 **SEC. 1326. TOTAL INTEGRATED THERMAL SYSTEMS.**

17 The Secretary shall—

18 (1) conduct a study of the benefits of total inte-  
19 grated thermal systems in—

20 (A) reducing demand for oil; and

21 (B) protecting the environment; and

22 (2) examine the feasibility of using total inte-  
23 grated thermal systems in Federal motor vehicle  
24 fleets (including the motor vehicle fleet of the De-  
25 partment of Defense).

1 **SEC. 1327. UNIVERSITY COLLABORATION.**

2 (a) REPORT.—Not later than 2 years after the date  
3 of enactment of this Act, the Secretary shall submit to  
4 Congress a report that examines the feasibility of pro-  
5 moting collaborations between large institutions of higher  
6 education and small institutions of higher education (as  
7 determined by the Secretary) through grants, contracts,  
8 and cooperative agreements made by the Secretary for en-  
9 ergy projects.

10 (b) CONSIDERATION.—In preparing the report under  
11 subsection (a), the Secretary shall take into consideration  
12 the feasibility of providing incentives for including small  
13 institutions of higher education (including institutions  
14 that primarily serve minorities), as determined by the Sec-  
15 retary, in—

- 16 (1) energy research grants;  
17 (2) contracts; and  
18 (3) cooperative agreements.

19 **SEC. 1328. HYDROGEN PARTICIPATION STUDY.**

20 Not later than 1 year after the date of enactment  
21 of this Act, the Secretary shall submit to Congress a re-  
22 port evaluating methodologies to ensure the widest partici-  
23 pation practicable in setting goals and milestones under  
24 the hydrogen program of the Department, including inter-  
25 national participants.

1     **TITLE XIV—INCENTIVES FOR**  
2     **INNOVATIVE TECHNOLOGIES**

3     **SEC. 1401. DEFINITIONS.**

4         In this title:

5             (1) **COMMERCIAL TECHNOLOGY.**—

6                 (A) **IN GENERAL.**—The term “commercial  
7             technology” means a technology in general use  
8             in the commercial marketplace.

9                 (B) **INCLUSIONS.**—The term “commercial  
10            technology” does not include a technology solely  
11            by use of the technology in a demonstration  
12            project funded by the Department.

13            (2) **COST.**—The term “cost” has the meaning  
14            given the term “cost of a loan guarantee” within the  
15            meaning of section 502(5)(C) of the Federal Credit  
16            Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

17            (3) **ELIGIBLE PROJECT.**—The term “eligible  
18            project” means a project described in section 1403.

19            (4) **GUARANTEE.**—

20                 (A) **IN GENERAL.**—The term “guarantee”  
21            has the meaning given the term “loan guar-  
22            antee” in section 502 of the Federal Credit Re-  
23            form Act of 1990 (2 U.S.C. 661a).

24                 (B) **INCLUSION.**—The term “guarantee”  
25            includes a loan guarantee commitment (as de-

1           fined in section 502 of the Federal Credit Re-  
2           form Act of 1990 (2 U.S.C. 661a)).

3           (5) OBLIGATION.—The term “obligation”  
4           means the loan or other debt obligation that is guar-  
5           anteed under this section.

6 **SEC. 1402. TERMS AND CONDITIONS.**

7           (a) IN GENERAL.—Except for division C of Public  
8           Law 108–324, the Secretary shall make guarantees under  
9           this or any other Act for projects on such terms and condi-  
10          tions as the Secretary determines, after consultation with  
11          the Secretary of the Treasury, only in accordance with this  
12          section.

13          (b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—  
14          No guarantee shall be made unless—

15               (1) an appropriation for the cost has been  
16               made; or

17               (2) the Secretary has received from the bor-  
18               rower a payment in full for the cost of the obligation  
19               and deposited the payment into the Treasury.

20          (c) AMOUNT.—Unless otherwise provided by law, a  
21          guarantee by the Secretary shall not exceed an amount  
22          equal to 80 percent of the project cost of the facility that  
23          is the subject of the guarantee, as estimated at the time  
24          at which the guarantee is issued.

25          (d) REPAYMENT.—

1           (1) IN GENERAL.—No guarantee shall be made  
2           unless the Secretary determines that there is reason-  
3           able prospect of repayment of the principal and in-  
4           terest on the obligation by the borrower.

5           (2) AMOUNT.—No guarantee shall be made un-  
6           less the Secretary determines that the amount of the  
7           obligation (when combined with amounts available to  
8           the borrower from other sources) will be sufficient to  
9           carry out the project.

10          (3) SUBORDINATION.—The obligation shall be  
11          subject to the condition that the obligation is not  
12          subordinate to other financing.

13          (e) INTEREST RATE.—An obligation shall bear inter-  
14          est at a rate that does not exceed a level that the Secretary  
15          determines appropriate, taking into account the prevailing  
16          rate of interest in the private sector for similar loans and  
17          risks.

18          (f) TERM.—The term of an obligation shall require  
19          full repayment over a period not to exceed the lesser of—

20                (1) 30 years; or

21                (2) 90 percent of the projected useful life of the  
22          physical asset to be financed by the obligation (as  
23          determined by the Secretary).

24          (g) DEFAULTS.—

25                (1) PAYMENT BY SECRETARY.—

1           (A) IN GENERAL.—If a borrower defaults  
2           on the obligation (as defined in regulations pro-  
3           mulgated by the Secretary and specified in the  
4           guarantee contract), the holder of the guarantee  
5           shall have the right to demand payment of the  
6           unpaid amount from the Secretary.

7           (B) PAYMENT REQUIRED.—Within such  
8           period as may be specified in the guarantee or  
9           related agreements, the Secretary shall pay to  
10          the holder of the guarantee the unpaid interest  
11          on, and unpaid principal of the obligation as to  
12          which the borrower has defaulted, unless the  
13          Secretary finds that there was no default by the  
14          borrower in the payment of interest or principal  
15          or that the default has been remedied.

16          (C) FORBEARANCE.—Nothing in this sub-  
17          section precludes any forbearance by the holder  
18          of the obligation for the benefit of the borrower  
19          which may be agreed upon by the parties to the  
20          obligation and approved by the Secretary.

21        (2) SUBROGATION.—

22                (A) IN GENERAL.—If the Secretary makes  
23                a payment under paragraph (1), the Secretary  
24                shall be subrogated to the rights of the recipi-  
25                ent of the payment as specified in the guar-

1           antee or related agreements including, where  
2           appropriate, the authority (notwithstanding any  
3           other provision of law) to—

4                   (i) complete, maintain, operate, lease,  
5                   or otherwise dispose of any property ac-  
6                   quired pursuant to such guarantee or re-  
7                   lated agreements; or

8                   (ii) permit the borrower, pursuant to  
9                   an agreement with the Secretary, to con-  
10                  tinue to pursue the purposes of the project  
11                  if the Secretary determines this to be in  
12                  the public interest.

13           (B) SUPERIORITY OF RIGHTS.—The rights  
14           of the Secretary, with respect to any property  
15           acquired pursuant to a guarantee or related  
16           agreements, shall be superior to the rights of  
17           any other person with respect to the property.

18           (C) TERMS AND CONDITIONS.—A guar-  
19           antee agreement shall include such detailed  
20           terms and conditions as the Secretary deter-  
21           mines appropriate to—

22                   (i) protect the interests of the United  
23                   States in the case of default; and

24                   (ii) have available all the patents and  
25                   technology necessary for any person se-



1                   lected, including the Secretary, to complete  
2                   and operate the project.

3                   (3) PAYMENT OF PRINCIPAL AND INTEREST BY  
4                   SECRETARY.—With respect to any obligation guar-  
5                   anteed under this section, the Secretary may enter  
6                   into a contract to pay, and pay, holders of the obli-  
7                   gation, for and on behalf of the borrower, from  
8                   funds appropriated for that purpose, the principal  
9                   and interest payments which become due and pay-  
10                  able on the unpaid balance of the obligation if the  
11                  Secretary finds that—

12                   (A)(i) the borrower is unable to meet the  
13                   payments and is not in default;

14                   (ii) it is in the public interest to permit the  
15                   borrower to continue to pursue the purposes of  
16                   the project; and

17                   (iii) the probable net benefit to the Federal  
18                   Government in paying the principal and interest  
19                   will be greater than that which would result in  
20                   the event of a default;

21                   (B) the amount of the payment that the  
22                   Secretary is authorized to pay shall be no great-  
23                   er than the amount of principal and interest  
24                   that the borrower is obligated to pay under the  
25                   agreement being guaranteed; and

1 (C) the borrower agrees to reimburse the  
2 Secretary for the payment (including interest)  
3 on terms and conditions that are satisfactory to  
4 the Secretary.

5 (4) ACTION BY ATTORNEY GENERAL.—

6 (A) NOTIFICATION.—If the borrower de-  
7 faults on an obligation, the Secretary shall no-  
8 tify the Attorney General of the default.

9 (B) RECOVERY.—On notification, the At-  
10 torney General shall take such action as is ap-  
11 propriate to recover the unpaid principal and  
12 interest due from—

13 (i) such assets of the defaulting bor-  
14 rower as are associated with the obligation;  
15 or

16 (ii) any other security pledged to se-  
17 cure the obligation.

18 (h) FEES.—

19 (1) IN GENERAL.—The Secretary shall charge  
20 and collect fees for guarantees in amounts the Sec-  
21 retary determines are sufficient to cover applicable  
22 administrative expenses.

23 (2) AVAILABILITY.—Fees collected under this  
24 subsection shall—

1 (A) be deposited by the Secretary into the  
2 Treasury; and

3 (B) remain available until expended, sub-  
4 ject to such other conditions as are contained in  
5 annual appropriations Acts.

6 (i) RECORDS; AUDITS.—

7 (1) IN GENERAL.—A recipient of a guarantee  
8 shall keep such records and other pertinent docu-  
9 ments as the Secretary shall prescribe by regulation,  
10 including such records as the Secretary may require  
11 to facilitate an effective audit.

12 (2) ACCESS.—The Secretary and the Comp-  
13 troller General of the United States, or their duly  
14 authorized representatives, shall have access, for the  
15 purpose of audit, to the records and other pertinent  
16 documents.

17 (j) FULL FAITH AND CREDIT.—The full faith and  
18 credit of the United States is pledged to the payment of  
19 all guarantees issued under this section with respect to  
20 principal and interest.

21 **SEC. 1403. ELIGIBLE PROJECTS.**

22 (a) IN GENERAL.—The Secretary may make guaran-  
23 tees under this section only for projects that—

24 (1) avoid, reduce, or sequester air pollutants or  
25 anthropogenic emissions of greenhouse gases; and

1           (2) employ new or significantly improved tech-  
2           nologies as compared to commercial technologies in  
3           service in the United States at the time the guar-  
4           antee is issued.

5           (b) CATEGORIES.—Projects from the following cat-  
6           egories shall be eligible for a guarantee under this section:

7           (1) Renewable energy systems.

8           (2) Advanced fossil energy technology (includ-  
9           ing coal gasification meeting the criteria in sub-  
10          section (d)).

11          (3) Hydrogen fuel cell technology for residen-  
12          tial, industrial or transportation applications.

13          (4) Advanced nuclear energy facilities.

14          (5) Carbon capture and sequestration practices  
15          and technologies, including agricultural and forestry  
16          practices that store and sequester carbon.

17          (6) Efficient electrical generation, transmission,  
18          and distribution technologies.

19          (7) Efficient end-use energy technologies.

20          (8) Notwithstanding subsection (a)(2), produc-  
21          tion facilities for fuel efficient vehicles.

22          (c) GASIFICATION PROJECTS.—The Secretary may  
23          make guarantees for the following gasification projects:

24          (1) INTEGRATED GASIFICATION COMBINED  
25          CYCLE PROJECTS.—Integrated gasification combined

1 cycle plants meeting the emission levels under sub-  
2 section (d), including—

3 (A) projects for the generation of elec-  
4 tricity—

5 (i) for which, during the term of the  
6 guarantee—

7 (I) coal, biomass, petroleum coke,  
8 or a combination of coal, biomass, and  
9 petroleum coke will account for at  
10 least 65 percent of annual heat input;  
11 and

12 (II) electricity will account for at  
13 least 65 percent of net useful annual  
14 energy output;

15 (ii) that have a design that is deter-  
16 mined by the Secretary to be capable of ac-  
17 commodating the equipment likely to be  
18 necessary to capture the carbon dioxide  
19 that would otherwise be emitted in flue gas  
20 from the plant;

21 (iii) that have an assured revenue  
22 stream that covers project capital and op-  
23 erating costs (including servicing all debt  
24 obligations covered by the guarantee) that

1 is approved by the Secretary and the rel-  
2 evant State public utility commission; and

3 (iv) on which construction commences  
4 not later than the date that is 3 years  
5 after the date of the issuance of the guar-  
6 antee;

7 (B) a project to produce energy from coal  
8 (of not more than 13,000 Btu/lb and mined in  
9 the western United States) using appropriate  
10 advanced integrated gasification combined cycle  
11 technology that minimizes and offers the poten-  
12 tial to sequester carbon dioxide emissions and  
13 that—

14 (i) may include repowering of existing  
15 facilities;

16 (ii) may be built in stages;

17 (iii) shall have a combined output of  
18 at least 100 megawatts;

19 (iv) shall be located in a western State  
20 at an altitude greater than 4,000 feet; and

21 (v) shall demonstrate the ability to  
22 use coal with an energy content of not  
23 more than 9,000 Btu/lb;

24 (C) a project located in a taconite-pro-  
25 ducing region of the United States that is enti-

1           tled under the law of the State in which the  
 2           plant is located to enter into a long-term con-  
 3           tract approved by a State public utility commis-  
 4           sion to sell at least 450 megawatts of output to  
 5           a utility; and

6           (D) a facility that—

7                 (i) generates separate hydrogen-rich  
 8                 (at least 75 percent hydrogen by volume)  
 9                 and carbon monoxide-rich (at least 75 per-  
 10                cent carbon monoxide by volume) product  
 11                streams from the gasification of coal; and

12               (ii) uses those separate streams to fa-  
 13               cilitate the production of ultra clean pre-  
 14               mium fuels through the Fischer-Tropsch  
 15               process.

16           (2) INDUSTRIAL GASIFICATION PROJECTS.—Fa-  
 17           cilities that gasify coal, biomass, or petroleum coke  
 18           in any combination to produce synthesis gas for use  
 19           as a fuel or feedstock and for which electricity ac-  
 20           counts for less than 65 percent of the useful energy  
 21           output of the facility.

22           (d) EMISSION LEVELS.—In addition to any other ap-  
 23           plicable Federal or State emission limitation requirements,  
 24           a project shall attain at least—

1           (1) total sulfur dioxide emissions in flue gas  
2           from the project that do not exceed 0.05 lb/  
3           mmBTU;

4           (2) a 90-percent removal rate (including any  
5           fuel pretreatment) of mercury from the coal-derived  
6           gas, and any other fuel, combusted by the project;

7           (3) total nitrogen oxide emissions in the flue  
8           gas from the project that do not exceed 0.08 lb/  
9           mmBTU; and

10          (4) total particulate emissions in the flue gas  
11          from the project that do not exceed 0.01 lb/  
12          mmBTU.

13          (e) **QUALIFICATION OF FACILITIES RECEIVING TAX**  
14 **CREDITS.**—A project that receives tax credits for clean  
15 coal technology shall not be disqualified from receiving a  
16 guarantee under this title.

17 **SEC. 1404. AUTHORIZATION OF APPROPRIATIONS.**

18          There are authorized to be appropriated such sums  
19 as are necessary to provide the cost of guarantees under  
20 this title.





**Calendar No. 121**

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 10**

**A BILL**

To enhance the energy security of the United  
States, and for other purposes.

JUNE 9, 2005

Read twice and placed on the calendar